





STATE NORMAL SCHOOL:  
LOS ANGELES, CAL.











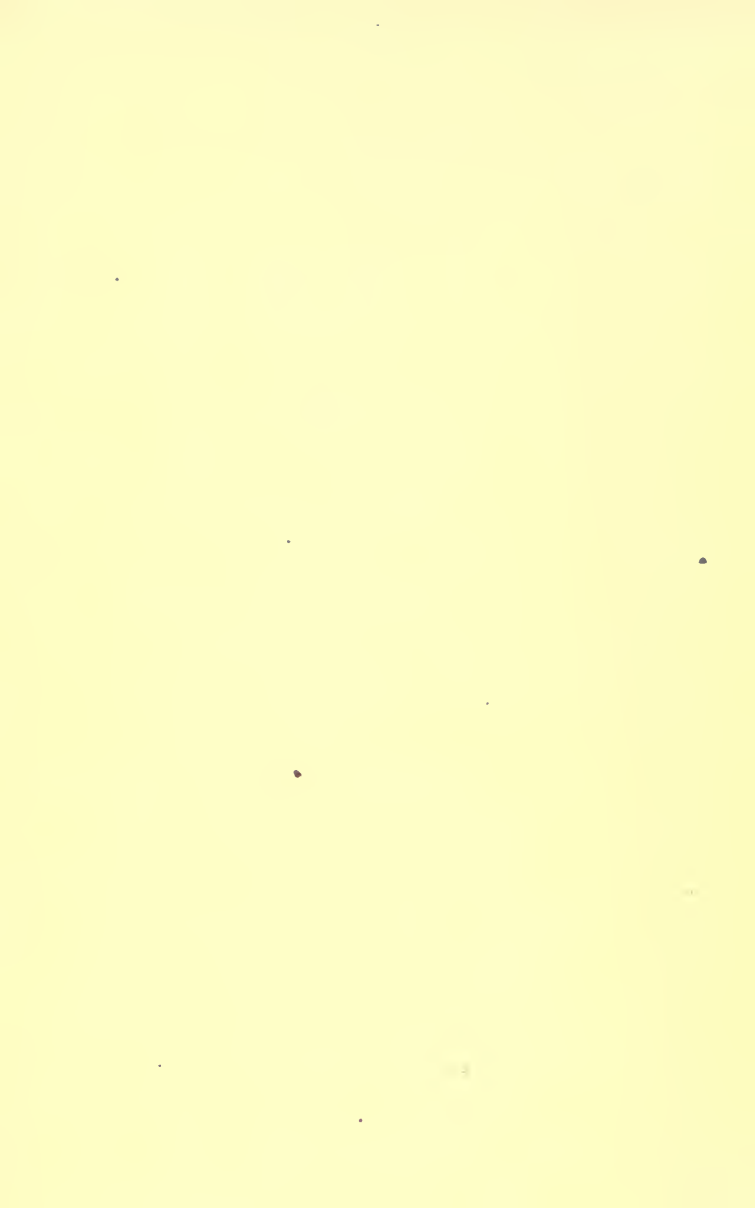


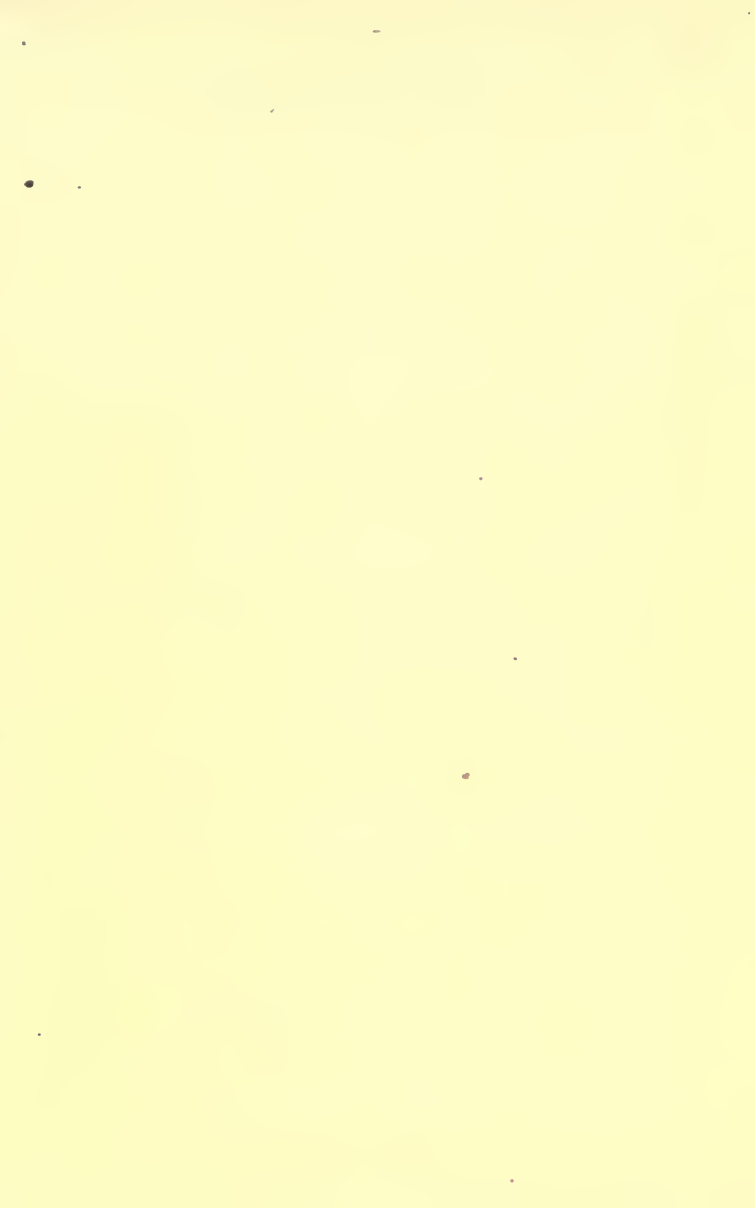




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A MANUAL  
OF  
COMMON SCHOOL LAW

BY

C. W. BARDEEN

EDITOR OF THE SCHOOL BULLETIN

1365/

9th Edition, Revised to Jan. 1, 1905



SYRACUSE, N. Y.

C. W. BARDEEN, PUBLISHER,

1905

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JAN 1905

## REFERENCES

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References to the New York Consolidated School Law of 1894, are indicated by small figures in parenthesis, the Roman number giving the title, the first arabic number the section, and the second arabic number the subsection. Thus (i. 2) indicates 1st title, 2d section; (xi. 1-7) indicates 11th title, first seven sections; (ii. 13, 5; xiii. 1) indicates 2d title, 13th section, subsection 5, and 13th title, section 1. When an arabic number is separated from the preceding by a comma instead of a period, it indicates an additional section or subsection. Thus, (vii. 13, 15) indicates 7th title, 13th *and* 15th sections; (vii. 14. 4, 5) indicates 7th title, 14th section, subsections 4 *and* 5. Some of the titles are in the law subdivided into articles, but these are not distinguished in the references, since they do not interfere with the paragraphing.

References to other New York statutes than that of 1894 are indicated by a number, a colon, and the year, all in parenthesis. Thus (677:1892) stands for chapter 677 of the laws of 1892.

References to the New York Code of Public Instruction, last edition (1887), are indicated by *italic* numbers in parenthesis. Thus (xiv. 1; *492-504, 557*) means 14th title, 1st section; *and* pages 492-504 and 557 of the Code of 1887.

This Code is a volume of 1075 pages, bound in full leather, and giving the explanations and decisions of the State Department. It is still the authority upon all points except where the law has been changed, and by means of this manual is made readily available. Copies may be had of the publisher of this volume at \$2.50 each.

References to decisions of the New York superintendents of public instruction are indicated by D. and the number of the decision in parenthesis. Thus (D. 1665) refers to decision No. 1665. For table of these references, see pages 237-239.

References to the statute laws of other States are indicated by a number in parenthesis following the abbreviation of the name of the State. Thus R. I. (251) refers to the 251st page of the last edition of the school law of Rhode Island. For table of these references, see pages 240-242.

References to legal decisions are indicated by numbers at the bottom of the page referring to the table of decisions on pages 223-236. Thus the little figure 1, referring at the bottom of the page to decision No. 375, is found on page 234 to mean 3 Tenn. 177.



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## PREFACE

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This work was first published in 1875, and for twenty years has been the only text-book on the subject in general use. New editions have appeared almost every year, with additions and changes required by statute amendments, and three times entirely new plates have been made. But the book is now for the first time entirely re-written, some changes being made in the arrangement, an entirely new chapter on rules and regulations being added, and the system of references being greatly extended. Indeed there are now more than 750 references to legal decisions, 200 to decisions of the New York superintendent of public instruction, and 600 to statute laws of other States, so that it is fair to say as regards Part II, the law relating particularly to the teacher, that the manual as now published is a safe guide throughout the country both in school and in court. Part I, the law relating to school officers, is so dependent upon statute enactment and varies so much in different States, that it is based directly upon the New York law, with only occasional references to the laws of other States.

In comparing the first edition of this work with the present some general changes in the status of the

teacher are worthy of remark. In the first place, definite boundaries have been established. In 1875 any person might become a teacher who could secure the good will of the licensing officer. Now, licenses to teach can be obtained only by examination on fixed dates upon questions prepared by a central authority, which also marks all the papers of the candidates. The requirements are constantly rising, and really considerable preparation is becoming necessary on the part of would-be teachers.

In the second place, the authority of the teacher as a teacher, independent of that which is delegated to him by the trustees, has been established upon a definite basis. The decision on page 140 is of great importance as fixing the relation between trustees and teachers.

On the other hand, the authority of the teacher over the child has been noticeably narrowed. Such decisions as those on page 152 would probably be now impossible anywhere, and there is more and more recognition of the principle that the school is for the child, not the child for the school.

Finally the general adoption of compulsory laws puts suspension and expulsion for misconduct upon a new footing, as shown on pages 207-210.

Hoping the new volume may prove worthy of the generous adoption that has been accorded to its predecessors, the author submits it to the public.

*Syracuse, N. Y., April 10, 1896*

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# BIBLIOGRAPHY

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The lawyer in the school-room : comprising the laws of all the States on important educational subjects. Carefully compiled, arranged, cited, and explained, M. McN. WALSH. 12:161. N. Y., 1867.\*

A treatise on the law of public schools, FINLEY BURKE. 12:154. N. Y., 1880. \$1.00.

The power and the authority of school officers and teachers in the management and government of public schools, and over the pupils out of school, as determined by the courts of the several States. By a member of the Massachusetts Bar. 16:181. N. Y., 1885.\*

The powers and duties of officers and teachers, ALBERT P. MARBLE. 16:27. Syr., 1887. 15 cts.

Legal provisions respecting the examination and licensing of teachers. 8:46. Wash., 1883.

Recent school law decisions, LYNDEN A. SMITH. 8:82. Wash., 1883.

Public school law of the United States as administered by the courts. With appendix, containing synopsis of principal statutes of each State, IRWIN TAYLOR. 8:411. Topeka, 1892. \$3.50.

Manual of school laws for the use of school teachers and officers in the State of Vermont, W. H. TAYLOR. 16:197. St. Johnsville, 1889. 75 cts.

School law, and a history and description of the educational system of Michigan, HARVEY TAPPAN. 16:168. Port Huron, 1889. \$1.00.

Michigan school law for teachers and students, MYRON T. DODGE. 12:136. Saginaw, 1893. 50 cts.

Legal rights of children, S. M. WILCOX. 8:96. Wash., 1880.

The laws of N. Y. and of the U. S. relating to children, with notes and references, LEWIS L. DELAFIELD. 8:317. N. Y., 1876. \$3.00.

The legal relations of infants, parent and child, and guardian and ward [etc.], G. W. FIELD. 8:396. Roch., 1888. \$3.50.

The law relating to schoolmasters, HENRY W. DISNEY. 12:135. London, 1893. \$1.25.

Manual of the education acts for Scotland, A. C. SELLAR. 8th ed., revised by J. E. GRAHAM. 8:335. Lon., 1888.

Protokolle über die im Juni 1872 im königlich preussischen Unterrichts-Ministerium gepflogenen, das Volksschulwesen betreffenden Verhandlungen. 8:71. Berlin, 1872.

Der Schuldienst. Auszug aus den Gesetzen, Verordnungen, und Ausschreiben in Schulsachen, für den Bezirk der königlichen Regierungen zu Hannover, Hildesheim und Lüneburg, H. SEEVERS. 8:71. Hfeld, 1886.

Handbuch der Organisation und Verwaltung der städtischen Schuldeputation, H. STEFFENHAGEN. 16:267. Berlin, 1888.

Züchtigungsrecht und Züchtigungspflicht der Lehrer, W. VELTEN. 16:76. Düsseldorf.

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\* Out of print.

PART I

THE SCHOOL OFFICER

# NEW YORK SCHOOL CALENDAR

- JAN.** 1. Legal holiday. P. 10.  
Commissioners-elect take office, 1897, 1900. etc. P. 14.  
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Normal entrance examinations.
20. Apportionment by State superintendent. P. 10,  
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# THE SCHOOL OFFICER

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## REGENTS OF THE UNIVERSITY

The control of public education in New York is placed in the hands of 11 regents, elected by joint ballot of the legislature, each for 11 years. (See p. 75.)

## COMMISSIONER OF EDUCATION

Their executive officer is the commissioner of education, elected by them for a term of 6 years, at a salary of \$7500, with \$1500 for expenses.

He has all the powers formerly wielded by the superintendent of public instruction and the secretary of the board of regents. He appoints assistants and heads of departments, subject to the approval of the regents; and the heads of departments appoint their subordinates subject to the approval of the commissioner. The present system is shown on the opposite page.

The present commissioner was elected by joint ballot of the legislature. His term expires March 31, 1910.

He is *ex officio* a regent of the university, and a trustee of Cornell University and of the New York State Asylum for Idiots (i. 6.) He has entire charge of teachers' institutes and of training classes. He must approve the plans of all schoolhouses except in cities of the 1st and 2d classes, and of repairs costing more than \$500. (281:1904)

*Appeals.*—In case of an appeal to him from any act or decision pertaining to common schools, his decision shall be final, and not subject to review in any court (xiv. 1; 492-504, 557).

Other States make similar provisions. (Del. 67:1898; Md. 221:1898, etc.)

## THE STATE SCHOOL MONEYS

*How made up.*—(a) The State tax authorized each year by the legislature (ii. 1); (b) such portion of the U. S. deposit fund as shall be appropriated; and (c) the income of the common school fund, constitute the State school moneys (ii. 4).

*How apportioned by the commissioner.*—On or before the 20th day of January in each year the commissioner shall set apart:

(1) The amounts required for salaries of (a) school commissioners (see page 14); and (b) superintendents (see page 18);

(2) Such sums as may be appropriated by the legislature for library moneys;

(3) A contingent fund of not more than \$10,000;

(4) A sum for the Indian schools equivalent to their proportion upon the basis of distribution (ii. 5);

(5) A district quota to every district employing a qualified teacher for 160 days, of \$150 if the valuation does not exceed \$40,000; otherwise of \$125 (316:1902);

(6) A teacher's quota of \$100 to each district for every additional qualified teacher who has been employed 160 days (ii. 6). See pages 89-104.

NOTE 1.—Where there has been a change of teachers, a succession of qualified teachers entitles the school to its distributive quota (ii. 6).

NOTE 2.—Pupils employed to teach, as monitors or otherwise, do not entitle to teachers' quota (ii. 6). See page 108.

NOTE 3.—The 160 days include legal holidays but exclude Saturdays. No school shall be in session on a legal holiday (ii. 6), except Feb. 12 and 22. The legal holidays are Jan. 1; Feb. 12; Feb. 22; May 30; July 4; the first Monday in Sept.; Dec. 25; each general election day, and each day appointed by the President or by the Governor for thanksgiving, fasting and prayer, or other religious observance. When a holiday falls on Sunday, the following day is a holiday (677:1892). Arbor Day is the Friday following May 1. See page 116.

NOTE 4.—The commissioner shall excuse a deficiency not exceeding 3 weeks in any school year caused by a teacher's attendance upon an institute within the county (ii. 6). See page 116.



He shall then apportion the remainder of the school moneys and the library moneys separately among the counties of the State according to population, excluding Indians.

**NOTE.**—In counties containing cities having school acts, the part to which a city is entitled is apportioned to it separately. In all towns and cities of the State having a population of 100,000 or more, the superintendent takes a census in October of the odd years of the names and ages of all persons 4-16, and of all persons 12-21 unable to read and write, and of all other facts required to enforce compulsory law (550:1895). See page 43.

*By commissioners.*—On the 3d Tuesday of March, the school commissioners of each county shall meet at the county seat, and apportion the school moneys as follows :

They shall (*a*) set apart and apportion the library moneys; (*b*) credit to each district the amount apportioned by the superintendent (*c*) add to the remainder any unexpended school moneys in the hands of the supervisors (vii. 54); (*d*) apportion the amount among the districts in proportion to the aggregate days of attendance; (*e*) send to the county treasurer and superintendent duplicate certificates showing the amounts apportioned to each school district; and (*f*) certify to the supervisor of each town the amount of school moneys apportioned to each district. (ii. 13).

**NOTE.**—*Library moneys.*—They shall apportion the library money thus: To each district an amount equal to that which shall have been raised in said district for library purposes, by tax or otherwise; and if the aggregate amount so raised in the districts within the county shall exceed the sum apportioned to the county, the apportionment shall be *pro rata* to the total amount apportioned (ii. 13, 5; xiii. 1-8).

*How distributed by the State and county treasurers.*—The moneys so apportioned are payable between the 1st day of April and the 15th day of May (166:1904) succeeding to the county treasurers (ii. 12), who shall, immediately on receiving the school commissioners' certificate of apportionment (ii. 16), pay to each supervisor the moneys apportioned to his town, as soon as the supervisor shall have filed a bond approved by the treasurer (ii. 17).

*How distributed by the supervisor.*—The supervisor will pay out library moneys only upon the written orders of trustees; and school moneys for teachers' wages only upon written orders of trustees: except that when a collector in any district shall have given bonds, or treasurer shall be elected as required by law, he shall pay over such school moneys to such collector or treasurer (iii. 4; vii. 14. 4, 5; 594-596, 659).

NOTE 1.—Where there is more than one trustee in a district, the written order must be signed by a majority of them (iii. 4).

NOTE 2.—In case of a union free school district the moneys both for teachers' wages and for library moneys shall be paid over to the treasurer (iii. 4. 3).

#### SUPERVISOR

*Town school treasurer.*—He is the custodian of the school moneys of the town (ii. 16); must give a bond (ii. 17); must report to the superintendent whether there be gospel or school lots and how they are rented (ii. 22); whether the town has a common school fund, and if so how it is applied (ii. 23); sue for and recover penalties (iii. 4. 9; vii. 13, 15); and act when required in the erection or alteration of a school district (vi. 4; 535), in which case he shall be paid \$1.50 a day for his services (vi. 5). If when elected he is a trustee or a member of a board of education he vacates that office (vii. 22; viii. 5).

NOTE 1.—When a district is dissolved he shall sell its property at auction, apply the proceeds to the payment of its debts, and apportion the residue among the owners of taxable property in proportion to their last assessments (vi. 10; 592, 593, 647). He may also sue for any money of the district outstanding (vi. 11).

**NOTE 2.**—The board of supervisors may divide a school commissioner district which contains more than 200 school districts (*Chap. 686, laws of 1892 ; 627*).

*Report.*—On the 1st Tuesday in March he shall make a written report to the county treasurer (iii. 3).

**NOTE 1.**—The supervisor is to keep a true account of all school moneys received and disbursed, and lay the same with proper vouchers before the board of town auditors at each annual meeting thereof (iii. 4, 4). He is also to keep a record of all receipts and disbursements in a bound blank book, which he shall deliver to his successor in office (iii. 4, 5).

**NOTE 2.**—Whenever after the first day of March in any year any county has failed to pay its share of the State tax, the State treasurer and superintendent are authorized to make a temporary loan to meet the deficiency, which amount with interest at 12 per cent shall be added to the amount of State tax and levied upon such county by the board of supervisors at the next assessment (ii. 3).

**NOTE 3.**—Within 15 days after the termination of his office, he is to deliver a true account of all receipts and disbursements of school moneys, and deliver the same to the town clerk (iii. 4, 6 ; iv. 1, 6-8).

#### TOWN BOARD

The town board must appoint one or more attendance officers for the districts of the town and fix his salary, which is a town charge (606:1896).

**NOTE 1.**—The town board consists of the supervisor, the town clerk, and the justices of the peace.

**NOTE 2.**—The jurisdiction of this officer extends only over districts outside of cities, union free school districts, and districts including in whole or in part an incorporated village ; in these the attendance officer is appointed by the school authorities. See page 43.

#### TOWN CLERK

*Records.*—Shall carefully keep all maps, papers, and records of his office pertaining to common schools (iv. 1 ; iii. 4, 6 ; vii. 89).

*Reports of trustees.*—Is to see that trustees deposit with him at the proper time their annual reports, and to deliver the same to the commissioner ; also,

to furnish the commissioner the names and post-office addresses of district officers, reported to him by district clerks (iv. 4).

*Alteration of boundaries.*—Trustees may request the town clerk and the supervisor to be associated with the commissioner in deciding as to change of boundaries of school districts (vi. 4; 535), in which case he shall be paid \$1.50 a day for his services (vi. 5).

*County* SCHOOL COMMISSIONER

*Election.*—He is elected by popular ballot at the general State election.

The term of office begins on the 1st day of January succeeding the election, and is for 3 years (v. 4).

NOTE 1.—The years of election are 1896, 1899, etc., except in the second district of Tompkins county, where they are 1895, 1898, etc.

NOTE 2.—Vacancies are filled by the county judge until the next general election.

*Qualifications.*—The candidate must be (a) of full age, (b) a citizen of the United States, (c) a resident of the State and (d) of the county in which the district is situated. A trustee or member of a board of education vacates that office when elected commissioner (vii. 22; viii. 5); and a commissioner must not engage in teaching during his term of office (627). No person is deemed ineligible on account of sex (v. 3).

*Salary.*—An annual salary of \$1,000 is paid him from the State school moneys.

An allowance of \$200 a year is also made by the county for expenses (v. 7-9). This last may be increased by the supervisors.

*Removal.*—If he persistently neglects to perform his duties his salary may be forfeited (v. 10); and he may be removed by the superintendent for wilful violation of duty, or for wilfully disobeying any decision, order, or regulation of the superintendent (i. 13).

If he is engaged directly or indirectly as publisher or seller of school books, or in making or selling school apparatus; or if he receives any gift or reward or promise for his influence in securing the sale among schools of books or furniture, he commits a misdemeanor and may be removed from office (v. 12). See page 129.

*Apportionment.*—The commissioners of each county shall meet at the county seat on the 3d Tuesday of March in every year, to apportion the school moneys of the county among the different districts (ii. 12). See pages 10, 11.

*Visitation.*—He shall visit schools in his district as often as practicable each year, and make inquires of all matters relating to the schools, and their management, and the condition of the school property; and recommend to trustees and teachers the proper course of instruction, management, discipline, and studies for the school (v. 13.2). See page 139.

In case of joint districts, the school is under the commissioner in whose district the schoolhouse is situated.

*Condemnation of schoolhouses.*—If he deems a schoolhouse wholly unfit for use he may condemn it, under written order taking effect immediately (vi. 13.4; 629, 630, 636, 637). Ky. has a like law<sup>1</sup>.

NOTE.—He has also the power to direct the trustees (a) to make any repairs or alterations on the schoolhouse or out-buildings which shall, in his opinion, be necessary for the health or comfort of the pupils at an expense not to exceed \$200, unless more shall be voted by the district (637); (b) to repair or replace the school-furniture at an expense not to exceed \$100 in any one year. (c) He may also direct the abatement of any nuisance on the premises when the cost is not more than \$25 (v 13.3). He is to approve of plans for school-buildings (vii. 17; 639), and of change of site (vii. 19). He has no power to condemn a schoolhouse *sic* (655).

*Examination of teachers.*—Is to examine persons proposing to teach common schools in his district, who do not possess a State certificate or a normal school diploma, and to grant licenses to those found to be qualified (v. 13. 5).

NOTE.—He may have the use of any school-building in his district for holding examinations (v. 16).

*Annulment of licenses.*—He is to examine any charge affecting the moral character of any teacher within his district, and if he finds the charges sustained to annul the teacher's license (v. 13. 6).

NOTE.—He also has the power to take affidavits, administer oaths, and issue subpoenas, when directed by the superintendent to take testimony in cases of appeal (v. 14).

*Teachers' classes.*—Teachers' classes, organized in any academy or union school by appointment of the superintendent, are subject to the visitation of the commissioner; it is his duty to advise and assist the principal of such school in the organization and management, and at the close of the term to examine the students in such classes and to issue teachers' certificates to such as show proper qualifications (xi. 7).

*Teachers' institutes.*—He is to make all necessary

arrangements for institutes when appointed by the superintendent, and report the same (x. 2).

NOTE 1.—He has the right to use any school-building in the district for that purpose (x. 3).

NOTE 2.—All schools in the district must be closed during the institute; except that districts having a population of more than 5,000 and employing a superintendent may be closed or not at the option of the board of education (x. 4). The schools thus closed shall be allowed the same average pupil attendance for the week of the institute as for the week preceding, and any school failing to close shall receive no public money based upon the aggregate attendance during institute week (x. 5). Wilful failure to close the school during institute week is sufficient cause for withholding the public moneys (x. 6).

NOTE 3.—All teachers employed or under contract to teach in the district shall attend the institute and shall receive wages for the time in attendance (x. 4).

*District boundaries.*—Shall ascertain from time to time if the boundaries of school districts are definitely described in the records of the proper town clerks; in case they are found defective, or are in dispute, shall cause them to be amended, or an amended record to be made (v. 13. 1; vii. 1, 3, 4; 539).

May alter the boundaries of any district with the written consent of the trustees of the districts affected (vi. 2; vii. 1, 3, 4; 244-257, 531-534, 540-563).

NOTE 1.—If the trustees of any such district refuse to consent, he may make and file with the town clerk his order making the change; but directing that it shall not take effect till a specified day not less than three months after giving notice to the trustees as given below (vi. 3).

Within ten days after filing such order, he shall give to one or more of the assenting and the dissenting trustees of any district affected by the change, at least a week's notice in writing, that, at a named time and place within the town, he will hear the objections to the alteration. The trustees of any such district may request the supervisor and town clerk to be associated with the commissioner; the decision made, whether the order directing the change shall be confirmed or annulled, is final, unless duly appealed from (vi. 4; 534-539).

NOTE 2.—*Union free school districts.*—He may alter the boundaries of any union free school district whose limits do not correspond with those of a city or an incorporated village in like manner as of common school districts; but no district shall be divided which has any bonded indebtedness outstanding (v. 6 ; 559).

NOTE 3.—*Dissolved districts.*—He may dissolve one or more districts, and from such territory form a new district, or unite a portion of such territory to any existing adjoining district or districts (vi. 9 ; 264:1896. He shall order the clerk of a dissolved district to deposit the books, papers, and records of the district in the town clerk's office, filing a duplicate of the order with the town clerk (vi. 13). The dissolved district must continue to hold meetings for the sake of paying its just debts (vi. 12). For distribution of its property, see vi. 10 ; 592.

NOTE 4.—The inhabitants of a district have no power to annul it (530), or to vote that no school be held (617).

*Reports.*—On August 1 he shall make to the superintendent a report made up from the reports of the trustees, afterwards indorsing and depositing them with a copy of his abstract in the county clerk's office (v. 16 ; 200).

#### CITY AND VILLAGE SUPERINTENDENTS

*Limit of Population.*—In any incorporated village or union school district having a population of 5,000 or upward, the board of education may appoint a superintendent of schools, to be under their direction, with powers and duties prescribed by them. He shall be paid from the teachers' fund a salary to be fixed by a majority vote. Such superintendent shall entitle the district to receive \$800 a year from the free school fund (viii. 17 ; ii. 5).

NOTE 1.—It is for the State superintendent to determine by causing the enumeration to be made whether the district really has a population of 5,000 (ii. 5 ; viii. 17).

NOTE 2.—Cities entitled to more than one member of assembly receive an additional \$500 for each additional member of assembly (ii. 5).



NOTE 3.—The time of the superintendent must be exclusively devoted to general supervision (ii. 5). He cannot act at the same time as teacher.

### ANNUAL AND SPECIAL MEETINGS

*Time and place.*—The annual meeting shall be held on the first Tuesday in August each year, and unless the hour and place thereof shall have been fixed by a vote of a previous district meeting, the same shall be held in the schoolhouse at 7½ o'clock in the evening (vii. 8; 197, 517, 570–578).

NOTE 1.—When the time for the annual meeting shall pass without a meeting being held, and the trustees or clerk shall not call a special meeting within 20 days thereafter, the school commissioner or superintendent may order a meeting at which the annual reports shall be made and officers elected (vii. 9, 15; 584).

NOTE 2.—The proceedings may be set aside if the attendance was too small to make its action fairly represent the wishes of the district (582).

*Districts of 300 children.*—Districts where the number of children of school age exceeds 300, as shown by the last annual report of the trustees, may by a majority vote at any annual meeting determine that the election of officers shall thereafter be held by ballot on the Wednesday next following the first Tuesday in August each year, between 12 o'clock noon and 4 o'clock in the afternoon, at the principal schoolhouse, or at such other suitable place as the trustees may designate on due notice (vii. 15).

NOTE 1.—The annual meeting in such districts shall be held as usual on Tuesday evening, when all business, except the election of officers, shall be transacted (vii. 8).

NOTE 2.—This paragraph does not apply to cities, nor to union free school districts whose boundaries correspond with those of an incorporated village, nor to any district organized under a special act prescribing the

manner of the election of officers, nor to the counties of Erie, Richmond, St. Lawrence, Suffolk, Warren, and Westchester (vii. 15).

NOTE 3.—When the place of election is other than the schoolhouse, the trustees shall give notice thereof at least one week before, by posting the same in five conspicuous places in the district, or by publishing it in a local newspaper (vii. 15).

NOTE 4.—The trustees may by resolution extend the time of holding the election from four o'clock till sunset (vii. 15).

*Special meetings.*—To call a special meeting, a notice shall be duly served upon each inhabitant entitled to vote, at least five days before the meeting; the notice shall state the purposes for which the meeting was called and no other business shall be transacted (vii. 6; 578, 579, 584, 646).

NOTE.—The notice shall be read in the hearing of each qualified voter or, if he is absent from home, a copy shall be left at least six days before the meeting, stating the time, place, and object of the meeting (vii. 2; 579).

But unless it shall appear that an omission to give due notice to all such voters was wilful and fraudulent, no proceedings shall be held illegal for want of such notice (vii. 7: 588, 646).

NOTE.—The proceedings of any meeting may be set aside where the proceedings were so turbulent and disorderly as to prevent a fair expression of opinion (589), or where records of the meetings were not properly kept (591). But the meeting is not bound by strict parliamentary rules, and makes its own (573).

*Qualification of voters.*—Every person, man or woman, (a) of 21 years of age, (b) who has resided in the district for the preceeding 30 days, (c) a citizen of the United States; and (1) who owns or hires or holds under contract to purchase real property in such district liable to taxation for school purposes (790), or (2) who is a parent of a child of school age that has attended the district school at least 8 weeks

within one year preceeding ; or (3) who has permanently residing with him or her any such child ; or (4) who owns and was assessed on the last preceding assessment roll of the town exceeding \$50 of personal property, exclusive of such as is exempt from execution, and no other, shall be entitled to vote at any school meeting, and may vote upon all questions brought before the meeting, including propositions to raise money by tax (638) (vii. 11).

NOTE 1.—The voter must have *all* the qualifications (a), (b), (c), and *one* of the qualifications (1), (2), (3), (4). An alien is no longer permitted to vote. See 187, 528, 788-791.

NOTE 2.—Under (2) both father and mother are entitled to vote.

NOTE 3.—Under (3) only one person, the head of the household, is entitled to vote. Therefore where husband and wife residing together have such a child residing with them, the wife is not on that account entitled to vote.

NOTE 4.—Under (1) a man does not become eligible through real estate owned by his wife (791).

NOTE 5.—No person shall be deemed ineligible to vote at any district meeting or to serve as any school officer, by reason of sex, who has the qualifications required by law (vii. 11 ; 791.)

*Illegal voting.*—Any person offering to vote at school meeting, upon being challenged as unqualified by any legal voter, shall be permitted to vote (522) on making this declaration : “ I do declare and affirm that I am an actual resident of this school district and that I am qualified to vote at this meeting.” If the person refuses to make this declaration, the vote of such person shall be rejected. (vii. 12, 16.)

NOTE. Any person who, upon being so challenged, shall wilfully make a false declaration of his or her right to vote at such election is guilty of a misdemeanor. Any unqualified person who shall vote, though not challenged, shall forfeit the sum of \$5.00, if it be at an ordinary district meeting (vii. 13, ), or of \$10 if it be an election held on the Wednesday following the annual meeting (vii. 15), to be sued for by the supervisor for the benefit of the district (vii. 13, 15). See Penal Code 41 k. 5, 18.

*Powers of school meeting.*—The inhabitants may by majority of the votes of those present (vii. 4) :

(1) Appoint a chairman (191).

(2) In the absence of the clerk appoint a clerk *pro tem*.

NOTE.—At the annual meeting, the next business is the presentation of the annual reports of trustees, collector, and treasurer (vii. 35, 86). The trustees then present statement of the money needed for teachers' wages, fuel, repairs, insurance, furniture, library, etc. (vii. 14), and the meeting takes action upon it. This should precede election.—(*Superintendent's Circular of Information*, July 5, 1894; 407).

(3) Adjourn from time to time as needed (192, 572, 577, 751).

(4) Elect by ballot (a) trustee or trustees, (b) district clerk, (c) district collector, and if so determined by the district (d) a treasurer (515–529).

NOTE 1.—No school commissioner or supervisor may be trustee, and no person can hold two district offices at the same time (419, 518, 785, 786). Every district officer must be a resident of the district, qualified to vote at its meetings, and able to read and write (vii. 22, 23). The treasurer must also be a taxable inhabitant (vii. 14. 5). If the candidate receiving a majority is found to be ineligible, a new election must be had (525). The trustee must not be the teacher of the district (744, 765).

NOTE 2.—The term of office of all district officers is one year, except that where there are three trustees the term is for three years, and in changing from one trustee to three, one trustee is elected for two years. But district officers hold office until their successors are elected or appointed (vii. 24). In a newly-created district the terms of the officers elected expire on the 1st Tuesday of August next thereafter (vii. 25).

NOTE 3.—It requires a *majority* vote to elect; that is the candidate must receive more votes than all the other candidates together (vii. 14. 4; 517, 524).

NOTE 4.—Formerly election by ballot was required only in union school districts (517, 521, 526), but it is now required in all districts (vii. 14. 4).

(5) Determine to have a treasurer.

(6) Fix the amount of bonds of the collector and of the treasurer.

(7) Designate sites for a schoolhouse (273-287, 581, 641).

NOTE 1.—The final designation can be made only at a special meeting of the district duly called for the purpose by a written resolution in which the proposed site is described.

NOTE 2.—While the district remains unaltered, the site cannot be changed without written consent of the commissioner and a majority vote of the district (vil. 19; 276, 642-657). The old site may then be sold (vil. 20).

NOTE 3.—For acquisition of site by condemnation, see ix. 1-5.

(8) To vote a tax for purchasing, leasing, and improving such site (258-264, 686).

NOTE 1.—No tax exceeding \$500 for a schoolhouse can be levied unless the commissioner shall certify his approval (489, 568), nor shall the house be built till the commissioner shall approve in writing the plan of ventilating, heating, and lighting (vil. 17; 639).

NOTE 2.—By a majority vote, the money for school building may be raised by instalments, not to extend more than 20 years. The trustees may then borrow at not more than 6 per cent., and issue bonds (vil. 18).

NOTE 3.—The district is not limited as to the amount it may pay for a site (642).

NOTE 4.—The district must purchase the site. A perpetual lease will not be permitted (650, 685).

NOTE 5.—All voting upon questions that involve the expenditure of money or the levying of tax *must be by ballot*, or by taking and recording the ayes and noes (vil. 14. 18).

NOTE 6.—A meeting may within proper time increase, diminish, or rescind the action of a former meeting to build a schoolhouse (587).

(9) To vote a tax not exceeding \$25 in any one year for the purchase of maps, globes, and school apparatus, and for the purchase of text-books and other school necessities for the use of poor scholars of the district (193).

NOTE 1.—This section does not authorize the adoption of free text-books (193).

(10) To vote a tax for a school library.

(11) To vote a tax to supply deficiency from what has proved uncollectible of a former tax (193).

(12) To have the school property insured (vii, 47. 7).

(13) To alter, repeal and modify their proceedings as needed (193).

(14) To vote taxes for :

(a) A book to record the proceedings (194); (b) To replace moneys lost or embezzled by district officers, and to pay expenses of law suits (195); (c) For teachers' wages; (d) To pay judgments against the district (745-747, 752, 754-756); (e) To enter into contract with any school to instruct the children of the district, and to provide for the conveyance of the children to such school (xv. 14; 264:1896). See page 49.

NOTE 1.—A district so paying for instruction will be entitled to one district quota. See page 10.

NOTE 2.—When the court shall certify that school officers have acted in good faith and where the matter might have been appealed to the superintendent, no costs in actions at law shall be allowed to plaintiff (xv. 3). When school officers have been instructed by the district to bring or defend an action, their costs and reasonable expenses shall be a district charge (xv. 4). When they have brought or defended such action without vote of the district, they may be reimbursed by a majority vote at a district meeting (xv. 5). Should the district refuse, they may appeal to the county judge (xv. 6).

NOTE 3.—In all propositions to spend or raise money, the vote shall be by ballot, or by taking the ayes and noes (vii. 14).

#### DISTRICT CLERK

*Duties.*—He is (1) to record district proceedings; (2) give notice of special meetings; (3) post notices of adjourned meetings; (4) give notice of annual meeting; (5) notify persons elected to district offices; (6) notify trustees of resignations; (7) keep all records and transfer them to his successor, or in dissolved

districts (8) to the town clerk ; (9) attend and record meetings of trustees ; (10) call special meetings when the office of trustee is vacant ; (11) hold the records open for inspection (vii. 34 ; 508-511).

**NOTE.**—The law does not permit the clerk to receive pay for his services (510).

*Notices of election.*—Shall notify in writing any person elected to any district office of such an election, when the person is not present at the meeting. Unless a written refusal to serve is filed with the clerk within 5 days thereafter, such person shall be deemed to have accepted the office (vii. 27, 34. 5).

*Penalties.*—If the clerk fails to deliver the records to his successor, or if in a dissolved district he fails on order of the commissioner to deliver them to the town clerk, he forfeits \$50 (vii. 13, 34).

## DISTRICT COLLECTOR

*Bond required.*—Vacates his office by not executing a bond, and the trustees may supply the vacancy (vii. 28). If the trustees approve the bond, they shall endorse their approval thereon, and furthermore deliver the bond to the town clerk, who shall file the same in his office, charging the district a fee of 25 cents (vii. 80, 88 ; 511-514).

**NOTE.**—He cannot legally enforce the collection of any tax unless he has executed a bond to the trustees, and renders himself liable for trespass to attempt to collect by levy and sale (Letter, Sup't Rice, Nov. 13, 1865).

It is not sufficient to say that no loss has happened to the district in the past for want of a bond ; the inhabitants are entitled to one as security in the future (511).

*Vacancy.*—A refusal to serve as collector creates a vacancy in the office, which the trustees may fill by appointment (Sup't Rice, Letter, April 10, 1854).

NOTE.—A verbal appointment of a collector by the trustee is invalid; the appointment must be written and filed with the district clerk. (Supreme Court—1876.)

*Delivery of warrant.*—A warrant for the collection of a tax voted by the district shall not be delivered to the collector till the 31st day after the tax was voted; a warrant for any other tax may be delivered when it is completed (vii. 78, 79).

*Renewal of warrant.*—The collector's warrant may be renewed but once without the written consent of the supervisor to a renewal endorsed thereon (vii. 83; 744).

*Posting notices.*—On the receipt of a warrant, the collector shall post notices in at least three public places of the district, one of which shall be on the outside of the front door of the schoolhouse, that he has received such warrant, and that taxes may be voluntarily paid him during the next two weeks. He shall also give notice personally or by mail at least 10 days before the expiration of the two weeks, to the ticket-agent at the nearest railroad station of any railroad assessed, and to non-resident tax-payers where the amount of tax exceeds one dollar (vii. 81).

*Compensation.*—He shall receive 1 per cent on all sums paid within two weeks of posting the said notice, and 5 per cent on sums thereafter collected.



In case of levy and sale, he shall be entitled to travelling fees at the rate of 10 cents a mile (vii. 81).

*Enforcement of tax levy.*—At the expiration of a collector's warrant, if the uncollected sums be payable by any person not residing in the district at the time of making out the tax list, or who shall not reside therein at the expiration of such warrant, or if the property assessed be real estate belonging to an incorporated company, and no goods or chattels can be found whereon to levy the tax, the trustees may sue for and recover the same in their name of office (vii. 85).

*May sell personal property, but not real estate.*—Is under no circumstances authorized to sell real estate ; but he can keep levying on personal property till enough to satisfy the tax is secured. (Sup't Rice—Letter April 23, 1866.)

NOTE 1.—No property is exempt from levy and sale under a tax-list and warrant, except certain military equipments. (Code of 1868 ; p. 191.)

NOTE 2.—The collector may levy upon any goods or chattels lawfully in the possession of the person liable for the tax, although such person be not the owner. (Code of 1868 ; p. 191. Supreme Court—1835.)

*Money held in trust.*—He shall keep in his possession all moneys received or collected by him, and pay them out upon orders from the trustees ; and he shall report in writing at the annual meeting of all his collections and disbursements, and pay over to his successor, when he gives bail, the moneys belonging to the district. He shall also report to the supervisor on or before the first Tuesday in

March of each year the amount of school moneys in his hands (vii. 86).

He must make good to the district any moneys lost by lack of proper effort to collect (vii. 87).

*Unpaid taxes.*—If at the expiration of a tax-warrant, any tax of real estate, or taxes upon non-resident stockholders in banks organized under the laws of congress, shall remain unpaid, the collector shall deliver to the trustees an account of the taxes remaining due, with a description of the lands upon the tax-list, with the amount of the tax thereon, and upon making oath before any officer authorized to administer oaths that, after diligent efforts, he has been unable to collect the same, he shall be credited by the trustees with the amount thereof (vii. 72).

*NOTE.*—The trustees, upon sending the account, affidavit, and their certificate that such account is correct, to the county treasurer, shall be paid the amount of the returned taxes from the county treasury (vii. 73, 74).

#### TREASURER

*An optional office.*—Any district may by a majority vote elect a treasurer, as custodian and disbursing officer of all school moneys. He must be a qualified voter and taxable inhabitant of the district (vii. 14.5, 35; iii. 4. 1).

#### TRUSTEES

*Number.*—A district having three trustees may at any annual meeting decide by resolution to have but one; no election of a trustee shall be held in such

district till the expiration of the terms of those then in office. To change from one trustee to three trustees requires a two-thirds vote of those present at any annual meeting (vii. 26 ; 418).

*Office vacated.*—A trustee who publicly declares that he will not accept or serve in the office of trustee, or who neglects to attend three successive meetings of the board (where districts have more than one trustee) after due notice thereof, without a good and valid excuse to the others, vacates the office (vii. 30 ; 766). A duly qualified person appointed to a school district office who refuses to serve shall forfeit \$5 ; or if he does not refuse but neglects to perform his duties he shall forfeit \$10, for the benefit of the schools of the district. But if his resignation be offered and accepted by the commissioner or the district meeting there shall be no forfeit (vii. 33).

*Removal.*—The superintendent may remove a trustee for neglect, or disobedience of orders (756–762), but not for immorality (761), or for failure to agree with his associates (760).

*Vacancies.*—In case of death, refusal to serve, removal from the district (787), or vacancy in the office of trustee by any other cause, and no election of a new trustee by a district meeting within a month thereafter, the commissioner may, in writing, appoint a competent person, to serve until the next annual meeting (vii. 29 ; 192).

*Other vacancies.*—Trustees may fill vacancies in other district offices by appointment (vii. 31).

NOTE.—Every appointment to fill a vacancy made by the commissioner or trustees, is to be filed at once with the district clerk, who shall immediately notify the person appointed (vii. 32).

*Board meetings.*—Any trustee may call a meeting of the board by giving the others at least 24 hours' notice (vii. 45).

NOTE.—When all have been notified and two only meet, these two have the powers of all three (vii. 45). Where there is a vacancy, the two have the powers of all three, and if there are two vacancies, the remaining trustee has the powers of all three (vii. 46). But the acts of a majority are illegal when performed without notifying or consulting all three (Sup't Morgan, Nov. 16, 1848). See 423, 541, 543, 569, 713-719, 727, 743.

*Powers and duties.*—The trustees shall :

(1) Call special meetings when needed (vi. 47. 1 ; 183).

(2) In the absence of the clerk, give notice of meetings (vii. 47. 2).

(3) Make out a tax list within 30 days after the tax is voted by a district meeting (328-377).

NOTE 1.—The law is merely directory ; the tax list may be made out after the 30 days (328).

NOTE 2.—The tax list shall contain as a heading a statement of the purposes for which the different items of the tax are levied (vii. 47.3, 62).

NOTE 3.—The valuation of taxable property shall be ascertained, so far as possible, from the last assessment roll of the town ; where it cannot be so determined, or where any person shall claim a reduction of his assessment, the trustees shall ascertain the true value of the property from the best evidence in their power, giving notice to the persons interested and proceeding the same as required by law of town assessors (vii. 64, 65 ; 506-508).

NOTE 4.—Any person working land under contract shall be deemed the possessor, and any person in possession of property under contract to purchase shall be liable to taxation therefor (vii. 67). Every person owning real property who shall improve and occupy the same by his agent or his servant shall be considered a taxable inhabitant of the district (vii. 68). A tenant

may charge back to the owner the district tax for schoolhouse property (vii. 69).

NOTE 5.—Lands of non-residents liable to taxation in the district, not occupied by a tenant or improved by the owner, his agent, or servant, are to be assessed as non-resident, and a description thereof entered on the tax-list (vii. 63, 71).

NOTE 6.—In making out a tax list where districts have more than one trustee, *all* of them must be notified in order to meet and act together in determining the assessments: without such notice a tax list is invalid. Sup't Van Dyck—1849; 662.)

NOTE 7.—When trustees make an original assessment for a school tax, a 20 days' notice to the parties affected is required before the delivery of the tax list and warrant to the collector (680).

NOTE 8.—When a person appears before the trustees at the proper time and place to claim a reduction in an original assessment made by the trustees, it is the duty of such trustees to examine the person under oath, and to correct the assessments if they appear to be erroneous (684).

NOTE 9.—The tax list may be amended and corrected, with consent of the superintendent (vii. 84).

*Limit to tax for building.*—No tax exceeding \$500, voted by a district meeting for building, hiring, or purchasing a schoolhouse, shall be levied by the trustees without the written approval of such larger sum by the commissioner; and no schoolhouse shall be built in any district until the plan of such schoolhouse, so far as ventilation, heat, and lighting is concerned, shall be approved in writing by the commissioner. But nothing herein contained shall invalidate any tax levied for building and repairing schoolhouses which in other respects comply with existing statutes (vii. 17; 489).

NOTE 1.—Except in New York city and Brooklyn, all school buildings more than two stories high must have outside stair-cases (vii. 49).

NOTE 2.—A taxable inhabitant who has been within four years set off from another district without his consent, and who has within that period paid into that district a tax for building a schoolhouse shall be exempted from paying tax for building a schoolhouse (vii. 70).

*Unfit schoolhouses.*—The school commissioner alone has the power to condemn a schoolhouse and school furniture when, in his judgment, it is unfit for use and not worth repairing. When the order reciting the reasons for this action, with a statement of the cost, not to exceed \$800, of such new building as is required, has been received by the trustees, they must immediately call a special meeting to consider the question of rebuilding (v. 13. 4 ; 265, 629–637).

NOTE 1.—The meeting shall have no power to reduce the commissioner's estimate of cost more than 25 per cent, and where no tax shall have been voted by the district within 30 days from the time of the first meeting held to consider the question, the trustees shall contract for the building of a schoolhouse to cost not more than the estimate of the commissioner and not to exceed 25 per cent less, and levy a tax to pay for the same (v. 13. 4).

NOTE 2.—A district cannot be compelled to rebuild where the schoolhouse has been destroyed, but the district may be annulled (559).

(4) Annex to the tax-list a warrant directed to the collector. See page 26.

NOTE—Within 15 days after the tax-list and warrant are returned by the collector, they must file the same with town clerk (vii. 89).

(5) Purchase or lease a site for the schoolhouse. See page 23.

NOTE.—Trustees are the only legal authority by which the vote of a district can be carried into execution, and have sole power of making contracts and of accepting work done (632, 749).

(6) Have custody of the school property (vii. 47. 6 ; 266).

NOTE 1.—They may permit the schoolhouse to be used for instruction in learning, or in music (vii. 52); and must allow it to be used for teachers' institutes or for teachers' examinations, when requested by the commissioner (v. 16 ; x. 31). But they must not allow it to be used for temperance meetings (649), and should use discretion in opening it for religious meetings ; no use should be permitted likely to occasion controversy (267).

NOTE 2.—The trustees are especially directed to take care of the code of public instruction, and deliver it to their successors (xv. 12).

(7) Insure the school property (vii. 47. 7; 266).  
See also vii. 14.

(8) Insure the school library (vii. 47. 8).

(9) Employ teachers as needed (vii. 47. 9; 744).

*Qualified teachers.*—No school moneys or money raised by tax may be paid to a teacher who is not 18 years old, and who does not hold either (a) a normal diploma, (b) a State certificate, (c) a college certificate, (d) a uniform certificate, or (e) a temporary license (vii. 38; i. 10; 378–394, 709, 732). Any trustee paying public money to an unqualified teacher commits a misdemeanor, and any fine imposed upon him shall be for the benefit of the district (vii. 39, 40).

NOTE.—The teacher's license may be annulled for wilful failure to attend institute (x. 6), for refusal to fulfil a contract (vii. 47. 9), for immorality (v. 13. 6), or for incompetency (692–693, 702). The contract then ceases (712). The teacher may be discharged at any time on failure to produce certificate (732).

*Not limited by the wishes of the district.*—Trustees may hire whom they choose for teacher, and pay such wages as they may see fit, with no power by the district or vote of a district meeting to restrain them (728); however, the wishes of the inhabitants should not be disregarded (715).

*A sole trustee* has all the powers of a board of three trustees (vii. 44).

NOTE.—Hence he can now employ a teacher for the ensuing year in advance of the school meeting, a power not conferred by the old law.

*Relationship.*—Trustees shall employ as teacher in a district school no one who is related by blood or marriage to any such trustee, except with the approval of two-thirds of the voters present and voting upon the question at an annual or special meeting. Nor shall the trustees of any district hire a teacher for more than a year in advance. Any person employed in disregard of these provisions shall have no claim for wages against the district, but may enforce the contract made against the trustees consenting to such employment. (vii. 47.9).

NOTE 1.—*Relationship to trustees.*—Where the district has three trustees, a relative of any one of them cannot be hired by the other two unless a meeting of the district approve of it by a two-thirds vote (721).

NOTE 2.—The law formerly made the limit of relationship two degrees (395-399), but the amended law makes no limit as to relationship and it is to be construed literally. The trustee cannot hire a teacher who is related to him in any degree—(*Letter of Sup't Crooker, Aug. 15, 1894.*)

NOTE 3.—The prohibition regarding the employment of a relative as a teacher now applies to union schools, but may be waived upon consent in writing of two-thirds of the members of the board of education (viii. 11).

NOTE 4.—Relationship by marriage ceases upon the death of the wife or husband.

(10) Make with teachers employed a written contract, with stipulation that wages shall be paid monthly (vii. 47. 10 ; xv. 17, 18 ; 395, 400, 405, 722.)

NOTE 1.—A contract with a teacher shall not be made for a shorter time than 10 weeks, or for more than one year in advance (vii. 47.9 ; 735).

NOTE 2.—Any failure on part of the teacher to complete an agreement to teach without good reason will be deemed sufficient ground for revoking the certificate (vii. 47.9).

NOTE 3.—The contract may be annulled if the teacher close school upon any school day (731).

NOTE 4.—If a teacher gives up his school because the trustees will not sustain him in enforcing reasonable rules, he may recover wages for the time taught (703). It is the duty of the trustees if they learn that serious



disturbance at school is threatened, to warn the teacher, and to be present themselves (733).

NOTE 5.—Where the teacher gives up the school voluntarily, even at the request of the trustees, she can recover wages only for the time taught (704). A teacher giving up the school through sickness is to be paid for the time taught (723).

NOTE 6.—When a teacher finds the schoolhouse locked against him, and without applying to the trustee goes away without making demand till 15 days afterward for opportunity to continue, he is held to have abandoned his contract (705).

NOTE 7.—If the school is closed during his term through fear of an epidemic, the teacher is entitled to wages for the time (710); and if extra weeks are taught, to extra wages for the extra time (708). The teacher cannot be compelled to teach an extra week to make up for the institute (711), and all holidays are allowed him without loss of wages (719).

NOTE 8.—A contract for a year includes the two months of vacation (707); but during these months the teacher may teach another school or otherwise employ his time (710).

NOTE 9.—When the contract states that it shall continue as long as the teacher keeps a good school, if the teacher is discharged it is for him to prove that he kept a good school (723, 726, 729).

*Dismissal of teachers.*—The annulment of the license dissolves all contracts entered into by virtue of its sanction, but until the license is revoked, the trustees are not bound to retain a teacher obnoxious to the district through immorality, ignorance, or inefficiency (729–734).

NOTE.—This would be subversive of the principles already enunciated as pertaining to the essential nature of contracts. It cannot be supposed that in case a charge of gross immorality, specifically urged, carrying with it a strong presumption of its truth, were brought against a teacher, the trustees must wait for the tedious delay of a formal hearing before a commissioner, and abide the event which may be determined through insufficiency of evidence, while the moral conviction of the truth of the charges preferred is still strong and abiding. The presence among pupils of a teacher against whom such suspicion should rest, must of itself, from the suggestions to which it would give rise, promote conditions of mind opposed to the development of virtue and purity of the heart.

This consideration alone would justify the trustees in a summary dismissal of the teacher. This, to be sure, is an extreme case, but it is sufficient to illustrate and to establish the principle advanced, that the trustees may

be justified in the discharge of a teacher before the close of the term specified in his contract. In determining what constitutes such justification, it is difficult, not to say impossible, to establish uniform rules (730).

*The power to dismiss* the teacher rests with the trustees. For an abuse of their discretion, or an unwarranted exercise of their authority, they are of course responsible. On complaint of the person sustaining what he considers a grievance or wrong, the issue becomes one of fact, and it devolves upon the trustees to show by evidence that the teacher lacked the character, the ability, or the will essential to a proper discharge of his duties, and that he failed thus to fulfil the obviously implied conditions of his contract (730).

NOTE.—The mere fact of dissatisfaction on their part, or that of the inhabitants, is not sufficient to justify the discharge of a teacher employed for a definite period. The tribunal before whom the action is brought, as a court, a jury, or the superintendent, are the constituted judges of fact, and will determine, from the evidence presented, whether the incompetence of the teacher, as resulting from ignorance or indifference, is fully proved, and hence his discharge upon the ground of a violated contract clearly justified.

In the case here presented, the trustees offer evidence bearing upon the management and general deportment of the appellant in the school-room, and his intercourse with his pupils, tending to show disregard of the properties and courtesies incident to his position. *Trifling and irrelevant conversation, oft indulged and long continued with pupils in school hours; prying and impertinent questions in regard to domestic affairs; low, and at the least suggestively vulgar, remarks to the older female pupils; rude, boisterous, and harsh language, as a means of or substitute for discipline,* are alleged and proved by the testimony of his pupils, with a circumstantial minuteness that requires emphatic denial or plausible explanation to invalidate or palliate.

The appellant has failed to meet the issue. It is proper and just to remark, that the justification of the trustees does not proceed from any alleged or proved inability or immorality of the appellant; his literary qualifications and his moral character stand unimpeached, and, it is to be hoped, unimpeachable. But his inefficiency appears to have been the result of gross negligence and indifference—a *debilitated will*, rather than of inherent depravity or defective scholarship, a fault which is earnestly hoped the wholesome practical discipline of this experience will serve to eradicate.

Under the view of the case as above presented, therefore, I must decline to interfere with the action of the trustees, and hold that they have presented a sufficient justification therefor (730).

The teacher may be dismissed for unjustifiable severity of punishment (732), but not for mere difference of opinion from the trustee as to discipline (732).

(11) Establish school regulations and courses of study (vii. 47. 11).

The principal regulations are the following :

(a) ATTENDANCE.—The schools are free to all persons over 5 and under 21 years of age residing in the district (vii. 36).

If there be a free kindergarten legally established, children over 4 years are counted as of school age. Otherwise the apportionment is made upon the attendance of children of from 5 to 18 years (ii. 13.6 ; 264: 1896).

*Children of school age*, in the trustee's report, include all children over 5 and under 21 years of age, who on the 30th of June last preceding the date shall have been actually in the district, comprising a part of the family of their parents, guardians, or employers, residing, even but temporarily, in the district: but not including the children of a family residing in another district in which such children may be by law included in the report of its trustees; nor any children supported at a county poor-house or orphan asylum, nor any Indian children on reservations provided with separate schools (vii. 36, 37, 60 ; 207, 209, 605, 608-611).

NOTE 1.—As a general rule, if the child whose parents or guardians live out of the district is residing, even if temporarily, in the district in good faith and not to avoid the payment of tuition, such child should be enumerated; otherwise in the district where its parents or guardians reside. Children visiting or boarding are to be enumerated where they permanently reside. (1886—Sup't Morrison.)

**NOTE 2.**—Non-resident pupils may be admitted into school upon written consent of the trustees upon such terms as the trustees prescribe (vii. 36; 603-605). When so admitted, the teacher may not refuse to instruct them (604).

**NOTE 3.**—Colored children must be admitted.

**NOTE 4.**—Fines cannot be imposed upon pupils, and attendance suspended till paid (601).

*Suspension and expulsion.*—Trustees may expel pupils for open, gross immorality manifested by any licentious propensities, language, manners, or habits, though not manifested by acts of licentiousness, or immorality within the school,\* or for such violent insubordination against reasonable and proper regulations of the school as to render it impossible to maintain necessary discipline and order, or when in their judgment the good order and proper government of the school demands it (770).

*Suspension for tardiness.*—In 1853, the superintendent decided that “teachers have the right to close the doors of their school-room against all pupils who may claim admission fifteen minutes after the time of opening the school” (Decision No. 1687). Later decisions have ruled that the teacher should not keep tardy pupils in the entry, especially in cold weather (605).†

**NOTE**—In Wisconsin, the superintendent decides that “to lock the door against tardy pupils, say at ten o'clock, is of doubtful propriety. The schoolhouse is a public place. The tardiness may not be the fault of the child. It might be a serious discomfort to the child to be turned back home. Let the school be made attractive.” And again: “Tardiness is, of course, a great annoyance. It is difficult to say how far the courts would sustain rules excluding pupils from school for being late. It is doubtful whether it

\* 38th Mass. Report, p. 159.

† See also Ill. 356, 553; 87 Ill. 303.

is good policy to turn tardy scholars into the street, perhaps to get into mischief ; perhaps to suffer from cold, from waiting outside ; certainly to lose more time. Persuasion, attractive lessons in the morning, an attractive school, privation of recesses, final degradation to a lower class if all fails, would perhaps be better remedies."—*Wis. Journal of Ed'n*, 1877, p. 125.

*Suspension for absence.*—In 1875 the board of education of Hornellsville, N. Y., adopted a rule that in every case of absence of a pupil for more than five days during any term for any other cause than sickness or death in the family, or religious observance, the absentee should be suspended until the beginning of the next term. Its legality being questioned, the superintendent replied :

Under the provisions of the law cited in your letter of the 19th inst., your board of education possesses the power to suspend pupils from school for causes which seem to merit such treatment. In my judgment, however, it would be unwise to enforce strictly the rule referred to in your letter. The object and intention of the law is to get pupils into the schools—not to keep them out.

In another case the same superintendent, Mr. Gilmore, went still further.

Among the regulations of District No. 2, Ellington, was this :

Any scholar absenting himself from any examination or part thereof, appointed by the teachers, without necessity duly certified beforehand, either by himself or his parent or guardian, shall not be admitted to the school afterwards, except by permission of the board and the approval of the principal.

On Feb. 4, 1875, before the written examination, the mother of three boys asked by written note that they be excused from the last days of the term, and withdrew them from the school. On the opening

of the next term, the three boys were refused admission under the above rule, the note not being accepted as a sufficient compliance with the regulation. This was over-ruled by Sup't Gilmour, who decided that boards of education have no right to make any regulation under which children are liable to perpetual exclusion from school for an act of the parent (603).

This view was carried still further under Sup't Ruggles. In September, 1884, the St. Johnsville board of education established the following rules :

The principal and teachers of the different rooms may suspend pupils under their immediate control for: 1. Three cases of absence, unless the absence be caused by personal sickness, or serious illness or death in the family, or by some pressing emergency. But one case of absence can be counted in the same day. \* \* \*

The power of reinstatement shall be limited to the board of education or the principal. \* \* \*

Any pupil suspended for any cause shall not be entitled to any privileges of the school until reinstated.

For four such absences the father of Clarence Sanders refused to give any reason; and on Nov. 5, the boy was suspended, and on presenting himself at school the next day was refused admission. His father appealed to the State department, which on March 20, 1885, decided that the boy must be reinstated, on the grounds (1) that the power of suspension should not be delegated from the board to a teacher; (2) that to require the parent to state the particular cause for a child's absence or detention is

not only unnecessarily inquisitorial, but, logically carried out, would permit the teacher or trustees to pass judgment on the parent's exercise of authority over his child.

This decision (reported in full in the *School Bulletin* for May, 1885) caused wide and generally unfavorable comment.

Superintendent Draper took a wholly different view, and gave to the author of this volume for publication a copy of the following letter, showing the ground afterward taken by the State department :

That the school authorities have the power to exclude from the benefits of the schools, pupils who refuse to comply with reasonable regulations relative to attendance, I have no doubt. I consider a regulation to the effect that a pupil who is absent or tardy shall bring his teacher a written excuse from his parent or guardian, to be entirely proper, and the department will therefore sustain you in enforcing it. The letter addressed to one of your teachers is a highly improper and insulting one. If this parent persists in sending his child to school with irregularity and in refusing to give any proper excuse for this course, you will be justified in excluding the child altogether.

The schools are surely for the benefit of all and all have common rights in them, but these rights must not be abused by any individual to the injury of others. If one parent can maintain the position which this one assumes, then *all* can, and if all can then the school system is liable to utter overthrow and destruction. This of course we cannot concede. You are advised to notify the person writing the letter which you enclose to me of the contents of this communication ; to receive the child into the school if the parent manifests a disposition to comply with the law. Otherwise you will be upheld in excluding the child in question.

Here is a Missouri decision :

Suppose rule 11 to be inverted, and instead of reading as it now stands should read thus : "Any pupil is at liberty to go a-fishing during school hours and be absent a half day or a whole day and as many days as he pleases, provided he conducts himself decently when in attendance in school." And this is the point to which the argument of the plaintiff tends. The pupil, it is urged, is at liberty to be absent when he pleases, and such absence is a matter solely between him and his parents. But the studies in our public schools are, I presume, classified according to the ages and advancement of the scholars ; and the continued or repeated absence of one of a class not only is injurious to the absentee, but if allowed beyond a certain point is calculated to demoralize those who attend, and damage the orderly instructions of the teacher. Taxes are not collected to pay teachers to sit in front of empty benches, or to hunt up truant boys. Such absences, when without excuse, are the fault of the parents, whose business it is to see that the attendance of their child is regular, unless prevented by causes which will, of course, be an excuse under the rule now in question.\*

*Vaccination.*—Trustees and school boards are directed and empowered to exclude from the benefits of the common schools any child or person who has not been vaccinated, until such time when they shall become vaccinated. (Chap. xxv. General Laws.)

NOTE 1.—*Free vaccination.*—When such school board or trustees shall adopt a resolution to carry into effect this provision, they shall post in two or more public places in the district, at least 10 days' notice thereof, stating that due provision has been made for the vaccination of any child or person of suitable age who may desire to attend the common school, and whose parents or guardians are unable to procure vaccination for them. (Chap. xxv. General Laws.)

NOTE 2.—*Provisions.*—The trustees or board may appoint some competent physician and fix his compensation to be, with other necessary expenses, provided in the annual tax bill.

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\* 71 Mo. 628. See also 116 Mass. 366 ; 13 Brad. 520.



*The Compulsory law (xvi) requires that :*

(a) every child between 14 and 16 not regularly employed, and (b) every child between 8 and 12 shall be in attendance upon instruction as many days between Oct. 1 and June 1 as the public school shall be in session; and that (c) every child between 12 and 14 shall attend school upon at least 80 consecutive school days, and in addition upon all school days when not usefully employed, and be instructed in at least the common branches of reading, spelling, writing, arithmetic, English grammar, and geography (xvi. 3).

*Private schools.*—If a child attends a private school the character of the instruction and the number of hours a day shall be the same as in the public school, with no more allowance for holidays and vacations.

*Parents* or guardians of children between 8 and 16 must cause such children to attend school, or give notice to the trustees of their inability to do so, under penalty of fine of \$5 to \$50 and imprisonment.

*Employers.*—It is made unlawful, under penalty of fine of \$50, to employ any child between 8 and 12 during the time the public school is in session; or to employ any child between 12 and 14 who does not present a certificate from the school superintendent or corresponding officer showing that the child has complied with the law respecting attendance.

*Attendance officers.*—Cities and union school districts shall appoint attendance officers to arrest children between 8 and 16 who are truants. In other districts these officers are appointed by the town board. See page 13.

*Truant schools.*—The trustees of any district may establish truant schools or truant rooms, and may send there with written consent of the parents, or without such consent upon conviction, for a period not extending beyond the school year, children between 8 and 16 who are habitual truants or who are insubordinate. Pupils suspended for more than one week must be committed to a truant school. The school authorities in cities and districts where there is no truant school may contract with any other city or district having a truant school for the confinement, maintenance, and instruction therein of its truant children. Industrial training must be taught in all truant schools. In cities or villages the expense of commitment and maintenance at a truant school shall be a city or village charge; in all other districts a county charge (606:1896).

*Record of attendance.*—The teacher of every school shall keep a record of children between 8 and 16, showing each day of attendance by the year, month, day of the month, and day of the week, and the number of hours each day.

*Penalty.*—One-half the State moneys may be withheld from any city or district neglecting to enforce the provisions of this act.

(b) **COURSE OF STUDY.**—Trustees have the power

to select the branches to be taught, and to require pupils to pursue them (605, 606).

**NOTE 1.**—Pupils must be instructed in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants, and narcotics (vii. 47. 11; xv. 19). Instruction in manual training may be prescribed (xv. 25), and advanced studies may be introduced (621). For the course of study required in high schools, see page 60.

**NOTE 2.**—Instruction in free-hand drawing must be given in all cities; and in all union schools districts unless excused by the superintendent (xv. 21). Evening schools for this purpose may be established when directed by the city authorities, or by district meeting (xv. 22). Vocal music may be taught in cities and in union schools (xv. 23). Kindergartens may be established in all districts (xv. 24; 264:1896. See page 66).

*Text-books.*—In district schools, the text-books to be used are to be designated by any annual meeting by a two-thirds vote of all the legal voters present and voting, and may not be changed within 5 years except by a three-fourths vote of those present and voting at an annual meeting.

In union free schools, the board of education adopts the text-books, and no change may be made within 5 years of adoption except by a three-fourths vote of the board (xv. 9, 10).

*Changing text-books.*—Any person superseding a text-book adopted for use in any public school by the board of education in cities, villages, and union free school districts, or in other district schools by a two-thirds vote of any annual meeting, within 5 years thereafter, except on a three-fourths vote of such board of education or annual district meeting, shall be liable to a penalty of not less than \$50 nor more than \$100, to be sued for by any tax payer before any justice of the peace for the benefit of the district (xv. 11).

*Religious exercises.*—In New York it has been uniformly ruled that pupils cannot be compelled to at-

tend religious services, and that the law gives no authority, as a matter of right, to use any portion of the regular school hours in conducting any religious exercises at which the attendance of pupils is made compulsory (618-622).

NOTE 1.—Some places, like the cities of Troy and Rochester, have forbidden any religious exercises. But in most communities opening the school with Bible-reading and some form of prayer is considered unobjectionable and desirable.

It is the rule of the State department never to interfere in this matter unless some one in the community feels sufficiently aggrieved to appeal to the superintendent, in which case the law forbidding religious exercises in school hours is immediately enforced.

NOTE 2.—The practice of the department is the same with regard to the drawing of public money by Catholic schools. In some cities and villages, schools conducted by Sisters wearing the usual garb of their order are admitted under the public school system, the teachers being examined by local officers, and drawing pay from the public funds. This the superintendent permits except where his attention is officially called to it by regular appeal, in which case he is obliged to decide that such are not properly public schools and cannot participate in the public money (622-625).

NOTE 3.—It has been held that Catholic children could be expelled for non-attendance on days when their church compelled attendance upon religious exercises;\* and in 1875 a Hebrew girl was expelled from the Sherwin school, Boston, for not attending the Saturday sessions. But the modern current of decisions is the other way, and trustees are advised to respect the religious observances of their pupils so far as the welfare of the school permits.

(c) CONDUCT OF PUPILS.—According to decisions in New York, the authority of trustees over pupils ceases with the close of school and their departure from the school premises (602).

NOTE 1.—The rule in other States is generally that the authority of the trustees is absolute on the school premises, and concurrent with the parent on the road home.†

NOTE 2.—A pupil may not be expelled for wearing her hair in a way disapproved of by the trustees (602).

\* 48 Vt. 414.

† 31 Ia. 568 ; 8 Cush. 160 ; 32 Vt. 114.

(12) Give to teachers for their wages orders on the supervisor, or on the collector or the treasurer for the public moneys, so far as they are in their hands; and collect the rest of the wages by direct tax, but not to exceed four months in advance (vii. 47. 12).

NOTE 1.—It is a misdemeanor to give an order upon the supervisor, collector or treasurer unless there shall be on hand sufficient moneys belonging to the district to meet the same (vii. 47. 12, 15).

NOTE 2.—They may raise this tax even when it has not been voted by the district (vii. 47. 12).

NOTE 3.—The order can be drawn only in favor of the teacher. If he desires to apply the proceeds to the payment of a private debt, for board or other consideration, he can endorse it to his creditor, but it is for him and not for the trustees to distribute his wages (400, 704, 707, 708).

NOTE 4.—A contract compelling the teacher to board with the trustee is null and void (597).

NOTE 5.—No order shall be given for wages till the teacher has verified the school report (vii. 53; 427).

*Payment of unqualified teacher.*—Trustees commit a misdemeanor by paying an unqualified teacher from the public moneys, or moneys raised by district tax, and any fines imposed on them shall be for the benefit of the schools of the county (vii. 40).

(13) Divide the public moneys into as many portions as there are terms, and raise the needed additional tax by terms (vii. 47. 13).

(14) Draw upon the supervisor, collector, or treasurer for the school and library money (vii. 47. 14). See iii. 4. 1, 2.

(15) After having paid toward teachers' wages

the public moneys applicable, raise the rest by tax (vii. 47. 15; 402, 403).

*Allowance.*—In case a district shall have been excluded from its share of the public money by omitting to make any report (ii. 15), or to comply with any other requirements, if it shall be shown to the superintendent that such omission was accidental or excusable, he may make such district an equitable allowance (ii. 8).

*Loss of school money.*—The loss of any school moneys to a district through wilful neglect of duty by any school officer, renders such person liable for the whole amount with interest (xv. 1).

(16) Call special meetings, when requested by a respectable number of inhabitants (565–568, 584, 742, 743).

(17) Sue for and recover any moneys in the hands of any former trustees and apply the same to the use of the district (vii. 58).

(19) *Outbuildings.*—They shall provide at least two suitable water-closets or privies for every school under their charge, entirely separated from each other, and having separate means of access; the approaches thereto shall be separated by a substantial close fence not less than 7 feet in height (vii. 48; 269).

NOTE 1.—It is the duty of such officers to keep these buildings in a clean and wholesome condition; and if they fail to comply with these requirements, it shall be sufficient ground for their removal from office, and the withholding from the district of any share of the public money (vii. 48).

NOTE 2.—Any tax to provide for the expenses thereof may be levied without a vote of the district when such expense shall have been approved by the school commissioner (vii. 48). The expense for the erection of necessary out-buildings when the district is unprovided with them, and the commissioner or superintendent has directed that they be built, is limited afterward to \$50 (vii. 50). But no limit is placed to the expenditure to abate nuisances under direction of the commissioner (vii. 50).

(19) *Purchase of apparatus.*—Trustees may expend, without a vote of the district, a sum not to exceed \$50 a year for necessary and proper repairs of the schoolhouse; and a sum not to exceed \$25 a year for a dictionary, maps, globes and other school apparatus (vii. 50; 193).

NOTE.—Trustees may also provide fuel, stoves, or other heating apparatus, pails, brooms, etc., when not voted by the district (vii. 50).

(20) *Libraries.*—The trustees shall appoint a teacher of the schools under their charge as librarian, who with the trustees shall be responsible for the safety and proper care of the books, and make such reports as the superintendent requires (xiii. 2).

NOTE.—Any books or other library property which have not been in direct charge of a librarian duly appointed within one year may be taken and shall be hereafter owned by any public library under State supervision which has received permission from the regents (xiii. 6).

No portion of the library money (see page 11) shall be expended except for books approved by the superintendent: which shall consist of (a) reference books for use in the schoolroom; (b) suitable supplementary reading books for children; (c) books relating to branches being pursued in the school; or (d) pedagogic books as aids to teachers (xiii. 1).

NOTE 1.—All districts may raise money by tax for their libraries, or receive gifts or bequests to maintain them (xiii. 4).

**NOTE 2.**—It is not necessary that the approval of the superintendent be secured before the purchase of the books, but the books must be such as he is likely to approve of. A list of suitable books may be obtained from the publisher of this volume, or from the superintendent.

The library is to be a part of the school equipment and kept in the school building at all times; but teachers, school officers, and pupils may borrow not more than one at a time of the volumes not needed for reference, and keep the same not to exceed two weeks (xiii. 2).

**NOTE.**—The board of education in a city or union free school district, or the school meeting in an ordinary district may give all its books to any township or other free public library under State supervision, provided it is free to such city or district (xiii. 5).

(21) *Branch schools.*—Whenever necessary, the trustees may open branch schools at the expense of the district (vii. 50; 598).

(22) *Contracts with city schools.*—Trustees may be empowered by majority vote of the district to make written contract with the board of education of any adjoining union school to permit the children of such district to be taught in the schools of such union school.

Such district shall receive its district quota (xv. 14). See page 24.

They may also be empowered to provide for the conveyance of children to such union school (264, 1896).

(23) *Records.*—The trustees shall keep in a blank book a record of all movable property belonging to the district, and their accounts of money received and expended. In another the teachers shall keep a record of all the pupils attending school, their ages, etc., and until the teacher has verified the entries by

oath the trustees shall not give an order for wages (vii. 53 ; 427).

The teacher is responsible for the register, and must make affidavit, and may make affidavit before school commissioner or district clerk. See page 122.

*Payment to themselves.*—Trustees cannot receive pay for their services (750), and must not employ themselves as teachers (744, 765).

They may not receive pay for services as workmen for the district, since they would thereby place themselves in position to act officially with personal bias (D. 3753, 3897, 4039). See *S. B.* xv. 104, 105. They may employ a person to do the clerical work in making out the tax-list (756).

(24) *Reports.*—Shall, on the 1st day of August in each year, make in writing a report to the school commissioner, and deliver the same to the town clerk (vii. 59 ; 203-215, 763).

Shall also once a year make full reports to the district (vii. 53, 55 ; 203-215, 763) ; and when their office expires pay to their successors all unexpended district moneys (vii. 56). Shall transmit amount of bonded indebtedness to clerk of board of supervisors on or before Nov 1 (274:1895).

*Failure to make report.*—Any trustee refusing or neglecting to render an annual account of moneys received and paid shall forfeit any unexpired term of office, and become liable to the trustees for any district moneys in his hands (vii. 57).

#### UNION FREE SCHOOLS

*Establishment.*—When 15 persons entitled to vote at any district meeting shall sign a call for a meeting to determine the establishment of a union free school in the district, it shall be the duty of the trus-



tees within 10 days after the call shall be presented to them to give such public notice as is required by law that a meeting of the inhabitants will be held for such purpose at a suitable place, and at a time not less than 20 nor more than 30 days thereafter (viii. 1).

*Union meeting.*—When 15 such persons from each of two or more adjoining districts, shall unite in a call for a meeting of the inhabitants of such districts, to determine whether the districts shall be consolidated by the establishment of a union free school therein, it shall be the duty of the trustees of those districts, or a majority of them, to give the notice as above for a meeting to be held within the districts at some convenient place (viii. 4; 776-780).

NOTE 1.—When such district corresponds wholly or in part with an incorporated village, the notice shall be published once a week for 3 consecutive weeks before the meeting in all the newspapers in the district, and at least 5 copies shall be posted conspicuously in said district 20 days prior to the meeting (viii. 2).

NOTE 2.—In other districts the notice shall be thus posted, and the trustees shall require some taxable inhabitant to notify every other taxable inhabitant (viii. 2).

NOTE 3.—The expense of these notices shall be borne by the district if the union free school is established, but if not, by the inhabitants signing the call (viii. 3).

NOTE 4.—The qualifications of voters are the same as at district meetings (vii. 11; viii. 8. See page 20.)

NOTE 5.—When one or more districts adjoin a union free school district whose limits do not correspond with those of an incorporated village or city, the commissioner may upon written consent of the trustees of all the districts affected dissolve such district or districts, and annex the territory to the union free school district (viii. 30).

*Election of trustees.*—Whenever any such meeting, or any adjournment thereof for a period not longer

than 10 days from a previous meeting, at which not less than 15 persons entitled to vote thereat shall, by the affirmative vote of a majority present and voting, determine to establish a union free school in said district, it shall be lawful for such meeting to proceed to the election by ballot of not less than 3 nor more than 9 trustees, in place of the existing trustees, whose terms shall cease when the others assume office, for a board of education (viii. 5).

NOTE 1.—Copies of the call for, and the minutes of meetings, duly certified by the chairman and secretary thereof, shall be by them transmitted to and deposited with the town clerk, the school commissioner, and the superintendent, respectively (viii. 5).

NOTE 2.—If it shall be decided not to establish a union free school, no other meeting for such purpose shall be called within a year thereafter. Nor shall a union free school district thus formed be dissolved within the period of one year from the first Tuesday of August following such meeting (viii. 5). For proceedings for dissolution, see viii. 32-42.

NOTE 3.—Neither a supervisor nor a school commissioner may be a member of a board of education, and a member elected to either of these offices vacates his office as a member (viii. 5). Compare vii. 22.

NOTE 4.—The trustees so elected shall be, by order of such meeting, divided into three classes to serve one, two, and three years respectively (viii. 9).

NOTE 5.—When the limits of such constituted district correspond with those of any incorporated city or village, their term of service shall be computed from the date of the next charter election in such city or village, and new members shall be elected at such annual elections thereafter, in place of those whose terms expire (viii. 6). In other districts their term of service shall be completed the first Tuesday of August following (viii. 5; 769).

*Change in number of members.*—The qualified voters may determine by a majority vote to increase or diminish the number of members of the board of education, but no board shall consist of fewer than 3 or more than 9 members (viii. 31).

*Dissolution.*—It shall be the duty of the board of

education of any union free school district, established not less than one year (viii. 5), upon the application of 15 resident taxpayers of the district, to call a special meeting, in the manner prescribed by law, for the purpose of determining whether application shall be made for the dissolution of such district, and its reorganization as a common school district or districts (viii. 32).

*NOTE 1.—Re-division into districts.*—If such dissolved district shall have been established by the consolidation of two or more districts, it shall be lawful for the commissioner to direct that its territory be divided to correspond as far as practicable, with the districts that were consolidated (viii. 34).

*NOTE 2.—Time for annual meeting.*—The annual meeting shall be held in the district or districts, after the dissolution, on the first Tuesday of August, and officers shall be elected as required by law (viii. 33).

*NOTE 3.—Report to superintendent.*—It shall be the duty of the board of education of the district affected forthwith to furnish the superintendent copies of the call, notice, proceedings of the meeting, and proceedings of the commissioner taken thereon (viii. 40).

*NOTE 4.—Not to be repeated within 3 years.*—Whenever, at such meeting, it shall be determined by a majority vote not to dissolve such district, or if the school commissioner shall not approve the proceedings of such meeting, no other meeting for a similar purpose shall be held in the district within 3 years from the time the first meeting was held (viii. 33, 39).

*Notice to commissioner.*—If it shall be determined by a two-thirds vote of the legal voters, as above, to dissolve such district, it shall be the duty of the board of education to present to the school commissioner a certified copy of the call, notice, and proceedings. If he shall approve of the proceedings of such meeting, he shall certify the same to the board of education; and on the day preceding the first Tuesday of August next thereafter such district shall cease to be a union free school district (viii. 33).

*Annual meeting.*—The annual school meeting of a union free school district when limits do not correspond with those of an incorporated village or city shall be on the first Tuesday of August (viii. 13).

NOTE 1.—In districts whose limits correspond with those of an incorporated village, the election shall be by separate ballot at the charter election (viii. 6).

NOTE 2.—The meeting has the right to choose its own chairman (764).

NOTE 3.—*Meetings of the board of education.*—In either case, the annual meeting of the new board of education for organization shall be on the Tuesday following the election (viii. 13), and there must be regular meetings at least four times a year (viii. 22). Such meetings are open to the public, but executive sessions may be held open only to the board and persons invited to be present (viii. 22).

NOTE 4.—The meeting may vote a tax for all text-books used in schools, in which case the board must furnish them within 90 days (195:1897).

*Clerk*\*.—The board of education now elects its own clerk (466:1897, 776).

NOTE 1.—He must be a qualified voter of the district, not a trustee or a teacher employed in the district (viii. 7), and able to read and write (viii. 8). His salary is fixed by the voters at the annual meeting, or if they fail to make provision by the board of education.

NOTE 2.—Where the limits of the district are the same as those of an incorporated town or village, the clerk is elected at the annual meeting. In case the annual meeting fails to elect, the board of education shall appoint one of their own number to act as clerk (viii. 7).

NOTE 3.—The board have power also to appoint as treasurer one of the taxable inhabitants of the district and fix his compensation (489, 833:1896), and another as collector of the moneys raised, to hold office during the pleasure of the board; if however the treasurer be elected "for the coming year" he cannot be removed except for cause (D. 4418). Each shall execute and deliver a bond to the board, of a sufficient security, within 10 days after written notice of his appointment shall have been duly served upon him (viii. 7; 769, 770, 771).

POWERS OF A BOARD OF EDUCATION.—The board of education is:

(1) To adopt by-laws and rules for its own government (viii. 15. 1).

*Quorum.*—The Consolidated Law does not prescribe how many members constitute a quorum, but a majority may be assumed to constitute a quorum and a majority of that majority may transact business (D. 3314, 4343).

\* The provisions of the statute relating to a clerk do not apply to the towns of Cortlandt and White Plains (viii. 42).

Trustees have this power by implication.

(2) To establish such rules and regulations concerning the order and discipline of the schools as they may deem necessary to secure the best educational results (viii. 15. 2).

Here their powers are the same as those of trustees. See pages 37-45.

(3) To prescribe the course of study, and regulate the admission and transfer of pupils (viii. 15. 3; 28).

These are the powers of trustees. See pages 43-45; 37, 38.

NOTE 1.—The board of education adopts the text-books, however, while trustees must refer the matter to the district meeting. See page 44.

(4) To prescribe the text-books used, and compel uniformity in the use of the same; and to furnish the same to pupils out of any moneys provided for the purpose (viii. 15. 4).

In ordinary districts the school meeting adopts the text-books; in union free school districts, this power is vested in the board of education (737). See page 44.

In ordinary districts text-books can be furnished only to indigent pupils. See page 23. In union free school districts they may be furnished to all pupils if the district provides the money.

(5) To make provision for the instruction of pupils

in physiology and hygiene with reference to the effects of stimulants and narcotics (viii. 15. 5).

This is also required of trustees. See page 43.

(6) (a) To purchase sites as designated by a district meeting (ix. 5); (b) to construct such schoolhouses as may be designated; (c) to purchase furniture and apparatus; (d) to keep the schoolhouse and furniture in repair; (e) to hire rooms for the school when needed; (f) to insure the schoolhouse and contents (viii. 15. 6).

(a, b) *To purchase sites and construct schoolhouses.*—Here the duties of the board are the same as those of trustees. See page 32.

NOTE.—*In cities of more than 30,000*, except in the city of Brooklyn (ix. 4), it shall not be lawful under the "condemnation law" (title 1, of chapter 23, of the Code of Civil Procedure) to acquire less than the whole of any city or village lot; or any premises occupied as a homestead without consent of the owner; or beyond the corporate limits of the city any garden or orchard or manufacturing establishment without consent of the owner (ix. 2).

*Villages and cities.*—In incorporated cities and villages, the corporate authorities shall from time to time raise by tax such sums as are set forth in a written statement in detail, and declared by the board of education to be necessary, for purposes of anticipated expenditures; and such authorities have no power to withhold the sums declared to be necessary for teachers' wages and the ordinary contingent expenses of the school. They shall also raise such further sums as may have been voted at the district meeting for sites, buildings, and apparatus (viii. 9).

*Districts not villages.*—In districts whose limits do not correspond with those of an incorporated city or village, a majority of the voters present at any annual or special district meeting, properly called, may authorize such acts and vote such taxes as they shall deem expedient for the support and welfare of the school (viii. 9).

NOTE 1.—No addition to or change of site or purchase of a new site, or tax for the purchase of any new site or structure, or for the purchase of an addition to the sight of any schoolhouse, or for building any new schoolhouse, or for the erection of an addition to any schoolhouse, shall be voted by such meeting unless a notice by the board of education stating that such tax will be proposed and specifying the amount and object thereof, shall have been published each week for the 4 weeks next preceeding the meeting in 2 newspapers published in the district, or in one paper if there be but one published; if no newspaper be published in the district, the said notices shall be posted in at least 10 of the most public places in the district for 20 days before the meeting (viii. 9).

NOTE 2.—No vote to raise money shall be rescinded, nor the amount thereof be reduced, unless it be at an adjourned meeting or a meeting called by regular and legal notice which shall specify the proposed action, and at which the vote upon said proposed reduction or recinding shall be taken by ballot or by recording the ayes and noes (viii. 9; 264: 1896.)

NOTE 3.—The money so voted may be levied in one sum or by instalments. When by instalments the corporate authorities are authorized to borrow so much as may be necessary at a rate of interest not exceeding 6 per cent (viii. 9).

NOTE 4.—All moneys for teachers' wages, after the due application of the school moneys thereto, shall be raised by tax (viii. 11).

(c) *To purchase furniture and apparatus.*—In ordinary districts, the expenditure of the trustees without vote of the district is limited to \$25 for apparatus.

NOTE 1.—See page 48. In union schools there is no limit.

NOTE 2.—U. S. flags must be furnished all schools (222: 1895). Apparatus for instruction in natural history, geography, and kindred subjects by pictorial representation may be had from the State superintendent for free use on payment of necessary expenses incurred. Free lectures are given to all cities and to villages employing a superintendent (362: 1895).

(d) *To keep the schoolhouse and furniture in repair.*—In ordinary districts, the expenditure of the trustees without vote of the district is limited to \$50. See page 48. In union free school districts there is no limit.

NOTE.—This does not however authorize material additions to the school property, or the adoption of an expensive system of heating or ventilation (776), which should be by vote of the district.

(e) *To hire rooms for the school when needed.*—Trustees have the same authority. See page 48.

(f) *To insure the schoolhouse and contents.*—Trustees have the same power, if the district neglects to authorize it. See page 33.

(7) To hold the property of the district in charge (viii. 15. 7).

Trustees have the same power. See page 32.

(8) To sell property of the district, when authorized by vote (viii. 15. 8).

Trustees have the same authority (vii. 20). See page 32.

(9) To take and hold any gift or legacy to the district (viii. 15. 9).

In ordinary districts this is one of the duties of the supervisor (593).

(10) (a) To have the superintendence, management, and control of the school; (b) to establish in the same an academical department when warranted, or, when authorized by the district, to adopt an established academy as the academic department (viii.



27); (c) to receive non-resident pupils, and establish tuition-fees; (d) to provide fuel, furniture, and other necessities for the school; and (e) to appoint librarians (viii. 15. 10).

(a) *To have the superintendence, management, and control of the school.*—This is identical with the power of trustees to establish rules and regulations. See pages 37–45.

(b) *To establish an academic department*—(viii. 27). This is a power denied to ordinary districts (771).

*Requirements.*—Such academic department shall be under visitation of the regents, and subject in its course of education and matters pertaining thereto to their rules (viii. 26).

*Grading of schools.*—The following system of grading has been adopted by the regents.

(1) The name *high school* shall be limited to schools giving a full four-year course, and supported by taxation, and the name *academy* to schools giving a similar course, not so supported.

(2) The academic departments of public schools giving less than a four-year course shall be graded as *junior*, *middle* and *senior* schools, according as they give *one*, *two* or *three*-year academic courses.

NOTE.—Schools not supported by taxation and giving academic courses of less than four years shall be similarly graded as *junior*, *middle* and *senior* academic schools.

(3) Such schools shall be admitted on a minimum of \$200, \$300, or \$400 respectively for books, and

on the provision of such apparatus as is required for teaching the subjects in the courses adopted.

NOTE 1.—Only full years shall be counted in grading.

NOTE 2.—The grade shall be determined not by courses offered in the catalogue, but by instruction really given to one or more students during the course. Studies may be counted if each student during his course has full opportunity to take them, though not given each year.

NOTE 3.—No school shall be admitted to the university unless its course of instruction includes at least 12 counts or one full year of academic work.

NOTE 4.—Secondary schools of the university shall be classified by this system on their own report of instruction for the present year, and this grading shall be revised by the inspectors at each visit.

NOTE 5.—Each junior school shall be at liberty to select for its course any 12 academic counts covered by the regents' examinations.

NOTE 6.—Blank forms of application may be had from the regents.

*Course of Study.*—The law respecting teachers for cities and villages (see page 98) requires for approved schools of higher grades this minimum course of study, approved by the State superintendent.

1. English 500 hours; to include grammar (100), rhetoric and composition (200), literature (200). A thorough course in grammar before entering the academic grades will be accepted as an equivalent for the 100 hours prescribed. The work in literature must cover requirements for admission to college by the Association of Schools and Colleges of the Middle States and Maryland.

2. History 500 hours; including English (100), Greek and Roman (100), and American (200), including 50 hours for the intensive study of some special period of American history; civics (100). For 100 of the hours in American history, 200 hours in sub-academic grades will be accepted.

3. Mathematics 450 hours; to include algebra to quadratic equations (200), plane geometry (200), and a review of arithmetic (50).

4. Science 500 hours; to include physics (200), chemistry (100), physiology (50), botany (50), physiology (50), and zoölogy (50). Individual laboratory work is required. For botany and zoölogy 100 additional hours in advanced physics or advanced chemistry, or 50 hours in each may be substituted. For all sciences except physics and physiology, 200 hours in Latin and 400 hours in Greek or French or German may be substituted.

5. Foreign languages, to include either Latin (400) or French (400) or German (400).

6. Drawing 200 hours; to include the principles and practice of representation, construction, and decoration.

7. Vocal music 100 hours; to include vocal culture (in class), sight-singing from the staff, and the common technical terms used in vocal music.

—*Circular of October 1, 1898.*

*Procedure.*—As soon as practicable, any institution making application for admission will be visited by

a regents' inspector, who will examine its equipment and advise with its officers as to plans for the future. Applications for charters or certificates of admission can, however, be forwarded at any time either before or after the inspector's visit and will, unless there be a special reason to the contrary, be acted on by the regents at their next meeting. If favorably considered, a certificate of admission will be granted.

*Adoption of existing academy.*—When an academy exists within a union free school district, the board of education may if authorized by a vote of the district, and with the consent of the trustees of the academy, adopt such academy as the academic department of the district. The board may lease such academy and site, and maintain an academic department therein (viii. 27).

NOTE.—If a union school district which has adopted an academy as an academic department be dissolved, the academy shall upon application of a majority of the surviving trustees or stockholders be transferred to them (viii. 35).

*Registration.*—The regents will authorize the inspection of any school of academic or higher grade which shall apply for the same, and which shall pay the total cost to the University of the inspector's time and travelling expenses.

*The academic fund.*—The sum of \$12,000 from the income of the literature fund, \$34,000 from that of the U. S. deposit fund, and \$60,000 from the general fund is annually paid for the benefit of acade-

mies, according to apportionment made by regents, examinations held in such academies. (*Chap. 378, laws of 1892.*)

NOTE 1.—Of the \$106,000 thus apportioned, \$60,000 from the general fund may be used only for the academic departments of union schools.

NOTE 2.—*Provisional examinations.*—On evidence satisfactory to the office, preferably the recommendation of a regents' inspector, that the best educational interests of a school demand it, the privilege of taking regents' examinations for a period not to exceed one year is sometimes granted provisionally while the school authorities are completing the requirements necessary for full admission.

Certificates of diplomas earned at examinations provisionally granted as above do not draw money from the academic fund unless the school at which they are earned is admitted to the University before the apportionment of the academic fund is made for that year.

NOTE 3.—The moneys apportioned to common school districts must be applied to the departments below the academical; and all moneys from the literature fund or otherwise appropriated for the academical department, to the latter (viii. 23).

*Reports.*—The regents shall require of each academic department an annual report giving information concerning trustees, faculty, students, instruction, equipment, methods, operations, etc.

NOTE.—For refusal or neglect to make this report, the regents may suspend its charter, or any of its rights and privileges.

*Teachers' classes.*—All cities except New York, and all villages employing a superintendent (1031: 1895), and such academies and other union schools as are designated by the superintendent, may instruct teachers' classes of not less than 10 or more than 25 pupils, for not less than 36 weeks.

For each such scholar the school shall receive \$1.00 for each week's instruction (xi. 3). See page 78.

NOTE 1.—The schools shall be chosen by the superintendent so as to distribute them among the commissioner districts, having reference to the number of school districts in each, and the location and character of the institutions (xi. 3).

NOTE 2.—The institution must be free to the pupils in the class (xi. 4).

NOTE 3.—The superintendent shall prescribe the conditions of admission, the course of instruction, the rules and regulations under which it shall be given, the number of classes in a year, and the length of time exceeding 16 weeks during which instruction may be given (xi. 3).

NOTE 4.—At the close of the term, the commissioner shall examine said classes, and issue teachers' certificates to such as prove worthy (xi. 7).

(c) *To receive non-resident pupils.*—Trustees also have this power. See page 38.

(d) *To provide fuel, furniture and other necessities.*—In ordinary districts, the expenditure of trustees without vote of the district is limited to the purchase of "fuel, stoves or other heating apparatus, pails, brooms and other implements necessary to keep the schoolhouse or houses and the school-room or rooms clean and to make them reasonably comfortable for use, when no provision therefor has been made by a vote by the district, or the sum voted by the district for said purpose shall have proved insufficient" (vii. 50). See page 48. The purchase of furniture by boards of education is already authorized by 6 (c), page 57.

(e) *To appoint librarians.*—Trustees have this power. See page 48.

(11) To employ by written contract, and to pay qualified teachers by written contract (viii. 15, 11). This power is the same as that of trustees. See pages 33–37.

NOTE.—The contract is subject to the rules established by the board (774).

(12) To fill any vacancies in the board (viii. 15. 12; 766, 770).

In ordinary districts vacancies are filled by the district meeting, or by the commissioner. See page 29.

(13) To remove a member of the board for official misconduct (viii. 15. 13; 768, 770).

In ordinary districts, only the superintendent can remove a trustee. See page 29.

NOTE.—The superintendent may remove any member of a board, for cause shown and after given opportunity for defence. Wilful violation or neglect of duty is cause for removal (viii. 29).

(14) To provide for the school at least two water-closets, entirely separated and with separate means of access (viii. 15. 14).

Trustees have this power, but it must be exercised under direction of the commissioner, and the amount must not exceed \$50. See pages 47, 48.

(15) To build outside stairways on buildings more than two stories high (viii. 15. 15).

This is also required of trustees. See page 31.

(16) If the population of the district is more than 5,000, and if it is thought advisable, to appoint a superintendent (viii. 17). See page 18.

Trustees of a large district school might appoint head teacher and call him superintendent; but he would not draw the \$800; and he would have to hold a teacher's certificate, which is not required of city and village superintendents.

(17) To keep an accurate record of its proceedings in books open to public inspection (viii. 18).

This is also required of trustees. See page 49.

(18) To publish each year 20 days before the annual meeting in at least one newspaper of the district a detailed account of all moneys received and expended (viii. 18).

This is not required of trustees.

(19) To appoint committees to visit all schools at least twice in each quarter, and report at the next regular meeting (viii. 22).

This is not required of trustees.

(20) To appoint an attendance officer for the arrest of truants (*Chap. 671, laws of 1894*). See page 43.

NOTE.—They may establish schools or set apart separate rooms for truant schools (*Chap. 671, laws of 1894*).

(21) *Drawing*.—To cause free instruction to be given in free-hand or industrial drawing, unless excused by the superintendent (xv. 21).

This is not required of trustees, though it is of course permitted. See page 43.

NOTE.—Boards are also authorized to maintain evening schools for instruction in industrial drawing, whenever the city authorizes in a city, or the district meeting in other union free school districts, shall so vote, for which purpose additional power to raise money for this purpose is conferred (xv. 22).

(22) *Vocal music*.—Boards may cause free instruction to be given in vocal music (xv. 23).

Trustees no doubt have the same power under their general control of the course of study (page 43); but this is a special authorization, meant to encourage the study of music.

(23) *Kindergartens*.—Boards may establish and maintain one or more kindergarten schools (xv. 24).

Trustees now have the same power (264:1896).

NOTE 1.—No child under 4 years may be admitted, and the board may fix the highest limit of age. Children under 4 years shall be reported separately, and may be counted in distributing the public moneys (ii. 6; xv. 24; 264:1896).

NOTE 2.—All teachers employed in these kindergartens must be licensed like other teachers (264:1896; see pages 33, 89); or have a special kindergarten diploma (see page 92); and are counted in the district quotas (see page 10; 264:1896).

(24) *Industrial training*.—Boards may maintain departments of industrial training; and purchase such outfit and employ such teachers as may be authorized by the city authorities or district meeting (xv. 25).

Trustees have the same power. See page 44.

(25) *Colored children*.—Boards in any city or incorporated village, and other union free schools could formerly establish separate but equal schools for children of African descent (xv. 28, 29), but this is no longer legal (492:1900).

Trustees have never had such power. See page 38.

(26) *Orphan asylums*.—The schools of the incorporated orphan asylum societies, except in the city of New York, shall participate in the public moneys, and shall be subject to the rules and regulations of the school authorities in their respective districts, but shall remain under the immediate management and direction of the said societies (xv. 32).

(27) *Arbor day*.—It shall be the duty of the authorities of every public school to assemble the



scholars on the Friday following the 1st day of May, to conduct such exercises as shall tend to encourage the planting, protection, and preservation of trees and shrubs (xv. 45).

NOTE—Pamphlets containing a course of exercises and instruction are published and distributed annually by the superintendent (xv. 46).

(28) To keep within the appropriation in all expenditures (viii. 23).

NOTE.—In the union schools of cities or incorporated villages, all moneys appropriated or raised by tax are to be paid into the city or village treasury, and kept distinct; and no money can be drawn from these funds except by resolution of the board, and by drafts signed by the president and countersigned by the secretary or clerk stating on their face the purpose for which they are issued (viii. 24).

NOTE 2.—In other union schools, the said funds shall be paid to the treasurers of the boards of education, and money drawn only by resolution and draft as in Note 1. In these districts, the boards shall annually render to the school commissioner accounts of all moneys received and expended, with every voucher, and certified copies of every order of the board (viii. 25).

*Estimate of money required.*—At the annual meeting of the district, the board shall present, besides any other report or statement required by law, a detailed statement in writing of the amount of money required for the ensuing year for school purposes, exclusive of the public moneys, specifying the several purposes for which it will be required and the amount of each. When demanded by any voter present, the question of voting the necessary taxes shall be taxed upon each item separately, and the inhabitants may increase or reduce any estimated expenditures, except those for teachers' wages and the ordinary contingent expenses of the school (viii. 18, 19). Compare report of trustees, page 50.

*Taxation without vote.*—If the inhabitants shall neglect or refuse to vote the sums estimated necessary for teachers' wages after applying thereto the public moneys, and the moneys received or to be received for that purpose, or shall refuse or neglect to vote the sums estimated necessary for contingent expenses, the board may levy a tax for the same in like manner as if it had been voted by the inhabitants (viii. 20).

Trustees have power to levy tax for teachers' wages, but not for the contingent expenses of the school except within the limits already specified for insurance, fuel, repairs, etc. See pages 33, 47, 48.

NOTE.—The board may not levy this tax unless the limit has been presented at an annual or special meeting, and the inhabitants have neglected or refuse to vote it (733).

(29) To exercise, except as specially provided for above, all the powers and duties of school trustees (ix. 3; 768); and whenever an academic department is established, of trustees of academies (viii. 16; chap. 378, laws of 1892).

DISTRICT AND UNION FREE SCHOOLS COMPARED.—The principal differences between district and union free schools may be summarized as follows:

(a) *Powers exercised by trustees with restriction; by boards of education without restriction.*

1. To purchase apparatus. Pages 48, 57.
2. To repair schoolhouses and furniture. Pages 48, 58.
3. To provide fuel, furniture, and other necessaries. Pages 48, 63.

4. To build outhouses. Pages 47, 48, 64.

*(b) Powers exercised in ordinary districts by the district meeting; in union free school districts by the board of education*

1. To prescribe text-books. Pages 44, 55.

2. To purchase furniture. Pages 48, 57, 63.

3. To turn over the library to a public library. Page 49.

4. To fill vacancies in the board. Pages 29, 63.

5. To waive relationship of teacher to trustee. Page 34.

*(c) Powers exercised by boards of education that do not exist in ordinary districts.*

1. To hold gifts and legacies. Page 58.

2. To remove members of the board. Pages 29, 64.

3. To appoint a superintendent. Pages 18, 64.

4. To publish an annual financial statement in a newspaper.

Page 65.

5. To appoint visiting committees. Page 65.

6. To levy without vote of district a tax for contingent expenses. Pages 33, 47, 48, 56, 66

7. To appoint an attendance officer. Pages 43, 65.

8. To establish truant schools. Pages 43, 65.

9. To establish kindergartens. Pages 44, 67.

*(d) Powers of the school-meeting in union free school districts that do not exist in ordinary districts.*

1. To provide free text-books. Pages 23, 55.

2. To vote a tax for a schoolhouse without limit or approval of commissioner. Pages 31, 57.

3. To establish an academical department. Page 59.

4. To raise money for evening drawing-schools. Page 67.

5. To establish separate schools for colored children. Pages 38, 66.

(30) To make on Aug. 1 of each year and deposit in the town clerk's office a report to the commissioner of all matters on which trustees are required to report (see page 49), and on such other matters as the superintendent may require (viii. 28 ; 769).

**NOTE.**—Every union school is subject to the visitation of the superintendent, who has general supervision over the board of education and the management and conduct of the departments of instruction. He may at any time require of the board a report upon any particular matter (viii. 28). Willful disodience of any lawful requirement of the superintendent is cause for removal (viii. 29). Any person may appeal to the superintendent against the action of any special meeting or the order of a commissioner altering or dissolving a union free school district (viii. 41).

### NORMAL SCHOOLS

New State normal schools are now established only by vote of the legislature.

*Local boards.*—The immediate supervision and management of each normal school, subject to the general supervision and direction of the superintendent, is vested in its local board, the members of which are appointed by the superintendent for life, subject only to removal by the concurrent action of the superintendent and of the chancellor of the university of the State of New York.

*Management.*—These boards (*a*) make the rules and regulations; (*b*) make annual reports to the legislature on Jan. 1; (*c*) prescribe the course of instruction; and (*d*) employ the teachers: their action being in all these matters subject to the approval of the superintendent.

**NOTE.**—The superintendent determines how many teachers shall be employed, and their salaries.

*Course of Study.*—Normal schools must give instruction (*a*) in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants, and narcotics (xv. 19); (*b*) in industrial and

free-hand drawing (xv. 21); (c) in vocal music (xv. 23); (d) in industrial training (xv. 27).

They are entitled to receive from the American Museum of Natural History at least one illustrated lecture every year, and such appliances, plates, and apparatus as may be necessary for proper instruction in natural history (428:1886; 6:1893).

*Pupils.*—The statute provides for proportionate representation of the counties, but in practice any pupil in the State may select which normal school he will attend.

They must be 16 years old, of good health and good moral character, and are admitted upon recommendation of a school commissioner or city superintendent, approved by the superintendent; and upon presenting either (1) *the diploma* of a college or university of a standard recognized by the department of public instruction; (2) a *New York certificate*, State, training class, or uniform 1st or 2d grade now in force. (3) Those not holding such credentials must pass special examinations in January, June, and August of each year. The subjects are the same as for a 3d grade certificate (see page 93), except that civil government is substituted for school law. 75% must be reached in all subjects, but the standing at two successive examinations may be combined. Partial standing obtained for a 1st or 2d grade, or training class certificate may be applied to this entrance examination on application to the department, if such standing was obtained during the current school year, or at the August examination if it was obtained during the previous school year.

*Expenses.*—Pupils are entitled to all the privileges of the school, free from charges for tuition, or for the use of books or apparatus.

NOTE 1.—Pupils not residents of the State must pay tuition, \$40 a year.

NOTE 2.—The pupil's railroad fare from home to the school one way each term is no longer paid by the State.

NOTE 3.—No pupils may be received into academic departments unless residents of the territory for the benefit of which the State has pledged itself to maintain such department (142:1889).

NOTE.—This applies to the schools which turned over academic property to the State on certain conditions.

*Tuition money* received by normal schools may be used for current expenses (Chap. 492, laws of 1870).

#### INDIAN SCHOOLS

*Management.*—These are in charge of the superintendent, who shall establish such schools as he thinks necessary, employ superintendents, and, with the concurrence of the comptroller and secretary of State, cause to be erected the necessary buildings (xv. 33).

*Public moneys.*—Indian children between 4 and 21 shall draw public money the same as white children, and such money must be exclusively devoted to their education (xv. 36). There shall also be an annual appropriation of \$6,000 by the legislature (xv. 37). See page 10.

#### INSTITUTIONS FOR THE DEAF AND DUMB, AND FOR THE BLIND.

*Management.*—These institutions are subject to the visitation of the superintendent (xv. 40).

*Admission.*—All deaf and dumb or blind persons, resident of this State for the three years preceding, upwards of 12 years of age, shall be eligible to appointment as State pupils to one of the institutions in this State. Such appointments are made by the superintendent, upon application under such conditions as to share of expense to be paid by parents, guardians, or friends as he may impose (xv. 41; 131-138).

NOTE.—Appointments to the Institution for the Blind in Batavia are not made by the superintendent.

## CORNELL SCHOLARSHIPS

NOTE.—In bestowing upon Cornell University, as an endowment, the public lands granted this State by congress in 1862, the State reserved the privileges of free instruction to be given to a limited number of pupils from all parts of the State at such institution.

*Number.*—The institution shall annually receive students to the number of one from each assembly district in the State, free of tuition fees or incidental charges (xii. 1).

NOTE.—In case a candidate entitled to the scholarship by reason of highest standing in the examination should fail in his entrance examination at the university, should die, resign, be expelled, or vacate such scholarship in any way, either before or after entering, then the candidate next in excellence becomes entitled to it; if there be no such candidate resident in the county, then the superintendent may appoint one from some other county (xii. 1. 5).

*How awarded.*—These scholarships shall be awarded by competitive examination of candidates by the school commissioners and city superintendents of each county. These examinations shall occur at the court-house of each county on the first Saturday in June in each year. The questions are prepared by the department of Public Instruction and the examination papers handed in are to be forwarded there (xii. 1).

NOTE 1.—The questions from the beginning to 1892 are published in "The New York Question Book", and in "Supplement No. 1", and "Supplement No. 2."

NOTE 2.—As it is intended that this free instruction shall be a reward for superior scholarship in the public schools, none are eligible but those who have attended some of the common schools or academies of the State at least 6 months of the year immediately preceeding the examination, and who are at least 16 years of age (xii. 1. 2). Children of those who have died

in the military or naval service of the United States are to have preference (xii. 1. 7).

NOTE 3.—A student may in the discretion of the president of the university be granted leave of absence from his studies for the purpose of earning funds to defray his living expenses at school, and be allowed 6 years to complete the course (xii. 1. 6).

#### THE UNIVERSITY OF THE STATE OF NEW YORK

NOTE.—The present university law is chapter 378, of the laws of 1892.

*History.*—The university of the State of New York was created in 1784 under the name of “regents of the university of the State of New York”, as a branch of the State government.

NOTE.—The word “regent” was first used by the University of Paris, and signified a master qualified to teach. In the English universities the rule grew up that only those masters actually teaching, the “regents” as distinguished from the non-regents, should have a right to vote in certain university assemblies, the regent combining the functions of teaching and of governing. New York put the name to a new use, making the regents not the teaching but the governing body.—*Sidney Sherwood's History, pages 256, 257.*

*The objects* of the university are to encourage and promote higher education; to visit and inspect its several institutions and departments; to distribute to or expend or administer for them such property and funds as the State may appropriate therefor, or as the university may own or hold in trust or otherwise; etc.

NOTE.—In 1812 it started the movement that resulted in forming the system of public instruction; in 1833 it established teachers' classes; in 1864 it started its system of examinations; and in 1892 it received exclusive power of granting charters to educational institutions in the State. It has published annual reports, which since 1835 have given educational statistics in great detail. In 1863 it established the university convocation, an annual meeting of teachers which has grown to be one of the most important in the country. In 1889 it took up the work of university extension.

*Extent.*—The university consists of all institutions



of education which are now or may hereafter be incorporated in this State, and such other libraries, museums or other institutions for higher education as may, in conformity with the ordinances of the regents after official inspection, be admitted to or incorporated by the university.

By the law of 1904, as interpreted by the regents and the commissioner of education, elementary as well as higher education is under control of the regents, and the commissioner is their executive officer, and has the powers conferred by the University law upon the secretary (40:1904; see page 9).

*Government.*—The university is governed and its corporate powers exercised by 11 regents, elected each for 11 years by joint ballot of the legislature.

NOTE 1.—In case of the death, resignation, or removal from the State of any elective regent, his successor shall be chosen by the legislature in the manner provided by law for the election of senators in congress, except that the election may take place at any time during the session of the legislature as it may determine.

NOTE 2.—No person shall be at the same time a regent of the University and a trustee, president, principal, or any other officer of any institution belonging to the university.

*Officers.*—The elective officers of the university are a chancellor, a vice-chancellor, and such other officers as are either authorized by law, or deemed necessary by the regents, all of whom are chosen by ballot and, except the commissioner, whose term is 6 years, hold office during the pleasure of the regents.

NOTE.—No election, removal, or change of salary of an elective officer shall be made by less than ten votes in favor thereof. Each officer so elected shall, before entering on his duties, take and file with the secretary of state the oath of office required of State officers.

*Chancellor.*—The chancellor presides at all meetings of the regents, confers degrees they authorize, and fixes time and place of special meetings.

NOTE.—In his absence the vice-chancellor, or, if he be also absent, the senior regent present, performs the duties and has all the powers of the chancellor.

*Secretary.*—The secretary is responsible for the safe-keeping and proper use of the university seal, and of the books, records, and other property in charge of the regents, and for the proper administration and discipline of its various offices and departments.

NOTE 1.—He shall give bonds, to be approved by the chancellor, in writing, in the penal sum of \$10,000 for the faithful discharge of his duties.

NOTE 2.—He shall have power to appoint, subject to the confirmation of the chancellor, any other officer of the university as his deputy to exercise temporarily any specified powers of the secretary in his absence.

*Meetings.*—In addition to the annual meeting, the chancellor shall call a meeting as often as the business of the university requires, or if 5 regents in writing so request.

NOTE 1.—At least 10 days notice of every meeting shall be given to each regent. If any regent shall fail to attend the meetings for one year without written excuse accepted as satisfactory by the regents, he shall be deemed to have resigned, and the regents shall report the vacancy to the legislature if in session, or at the opening of its next succeeding session, when the vacancy must be filled.

NOTE 2.—For the transaction of business, 10 regents attending shall be a quorum; but the regents may elect an executive committee of not less than 7, which in the interval between the meetings may transact such business of the regents as they may authorize, except to grant or revoke charters, or grant honorary degrees.

*Degrees and diplomas.*—The regents may confer by diploma under their common seal such honorary degrees as they may deem proper, and may establish examinations as to attainments in learning, and award and confer suitable certificates, diplomas and degrees on persons who satisfactorily meet the requirements prescribed.

*Examinations.*—They shall establish in the academies of the university, examinations in studies furnishing a suitable standard of graduation from the academies and of admission to colleges, and certificates or diplomas shall be conferred on students who satisfactorily pass such examinations.

NOTE 1.—All the questions in arithmetic, geography, grammar, and spelling, up to June, 1892, are published with answers in a single volume called "The Regents' Questions Complete, with Key", price \$2.00. No other questions with answers have been published, but the questions alone for the preceding year may be had at any time in book form for 50 cts.

NOTE 2.—Any person shall be admitted to these academic examinations who shall conform to the rules and pay the fees prescribed by the regents, and said fees shall not exceed \$1.00 for each academic branch and \$5.00 for each higher branch in which the candidate is examined.

*Control.*—The university, including the State library and the State museum, and such other departments as the regents may establish, is under the control of the regents, who have all the powers of trustees, including full authority to appoint all needed officers and employes; to fix their titles, duties, salaries and terms of service; to make all needed regulations to buy, sell, exchange or receive by will, gift or on deposit articles or collections properly pertaining thereto; to maintain lectures connected with higher education in this State; and to lend to or deposit permanently with other institutions books, specimens or other articles in their custody which, because of being duplicates or for other reasons, will, in the judgment of the regents, be more useful in the said institutions than if retained in the original collections at Albany.

*State publications.*—The regents have charge of the preparation, publication, and distribution, whether by sale, exchange or gift, of the colonial history, natural history, and all other State publications not otherwise assigned by law.

To guard against the waste or destruction of State publications, and to provide for the completion of sets to be permanently preserved in American and foreign libraries, the regents maintain in the State library a duplicate department to which each State department, board, or bureau shall send not less than five copies of each of its publications when issued, and after completing its distribution, any remaining copies which it no longer requires. The above publications, with any other books and pamphlets not needed in the State library, constitute the duplicate department, and the rules for sale, exchange or distribution from it are fixed by the regents, who use all receipts from such exchanges or sales for the increase of the State library.

#### TEACHERS' TRAINING CLASSES

The present regulations for teachers' training classes (see pp. 62, 63) require that applications should be made to the Department by May 1, and show compliance with the following conditions:

(a) *To furnish an instructor* or instructors of the class for not less (each day) than 3 recitation hours of 45 minutes each, a duly qualified teacher who is either (1) *a college graduate* with not less than 3 years' experience in teaching in the public schools of the State; (2) *a graduate of a normal school* of this State from a higher course than the elementary course, so called, of at least 2 years' experience in teaching in the public schools of the State; or (3) *one holding a State certificate* granted in this State upon examination subsequent to 1875. Such instructor or instructors must be approved by the State superintendent of public instruction, the same as are teachers employed in the several normal schools of the State.

(b) *To furnish a room* or apartment *separate* from all other departments of the school, in which the training class members shall be seated and no others, unless it may be the members of the graduating class of the current school year.

(c) *To furnish opportunity* for the class or some members thereof each day *to observe methods of teaching* in the several grades of common school work, and, when practicable, actually to have an opportunity to teach in such grades under proper criticism and direction.

(d) *To conduct the recitations* in the several subjects belonging to the training class work *separately* and distinct from all other recitations in such subjects.

(e) *To maintain a legal class for at least 36 weeks* in the year.

(f) *To observe implicitly the conditions of admission* to membership in the class.

*Assignments* are made with reference to such distribution through the State as will accommodate the greatest number of candidates and provide the best equipment.

*One class a year* is allowed, for not less than 36 weeks, of not less than 10 or more than 25 members.

*The compensation* is \$1.00 a week for each pupil; but not more than \$450 per term can be allowed to any one institution.

No allowance is made (a) for pupils not shown by reports to have been eligible to enter the class, as explained below; or (b) in the case of any pupil for 1st term for less than 16 or more than 18 consecutive weeks.

(c) In report for 2d term, all pupils who were members of class for 1st term for less than 16 weeks and who remain in 2d term, will be allowed for all weeks of consecutive attendance during both terms, provided the total does not exceed 36 weeks.

(d) In case of pupils who attend 1st term not less than 16 and not more than 18 weeks, and who continue in 2d term a less period than 16 weeks, allowance will be made for weeks attended in 2d term, provided the weeks of attendance in both terms have been consecutive.

(e) No allowance will be made for any pupil who leaves the class before the expiration of the term, except by permission of the State superintendent, and no such permission will be granted during the year, simply in order that the candidate may teach.

*Admission of pupils.*—The following are the qualifications for admission of pupils to the class :

(a) *Candidates must be at least 17 years of age* at the time of entrance.

(b) *They must subscribe, in good faith, to the following declaration:*

We, the subscribers, hereby declare that our object in asking admission to the training class is to prepare ourselves for teaching; and that it is our purpose to engage in teaching in the public schools of the State of New York, at the completion of such preparation. We pledge ourselves to remain in the class during the year, unless prevented by illness, or else excused by the superintendent of public instruction.

The principal and school commissioner must be satisfied that the candidates have the moral character, talents, and aptness necessary to success in teaching.

(c) Before admission *they must hold* either (1) *an unexpired 3d grade teacher's certificate* and have attained an average standing of 60 per cent in civil government, under the uniform examinations; or (2) a regents' preliminary certificate, together with 14 academic counts, 4 of which are in English, 2 in American history, 2 in civil government, 2 in physiology, and the other 4 optional.

(d) *Candidates* entering an examination, in order to qualify for entrance to any training class, *shall present* to the examiner *a certificate* from some reputable teacher, that in such teacher's judgment the candidate is capable of passing the examination and worthy to enter a training class. Such certificate shall be forwarded to the State superintendent's office with the answer papers of the candidate.

*Certificates.*—Special examinations for members of training classes are held in January and June, and those members who attain the standing required for certificates of the 2d grade receive certificates known as "Training class certificates", valid for 3 years. See page 91.

At the end of 3 years' successful teaching, this certificate is renewable, like 1st grade certificates.

Payment for instruction will be refused in all cases where members of classes fail to enter the examinations provided, unless such failures are satisfactorily explained in the principal's report.

*In cities.*—The following regulations for city training-classes in cities were issued by the State superintendent April 6, 1896.

*Admission of pupils.*—(a) and (b) as on pp. 79, 80.

(c) Before admission *they must hold* as a minimum qualification either (1) *a diploma of graduation* from a high school or an academy having a course of study approved by the State superintendent (see page 60); or (2) *a diploma from an institution of equal or higher rank* approved by the same authority.

(d) Graduates from institutions in the State of New York will be required to file with the local superintendent a certificate from the principal teacher of the institution where they were graduated, setting forth the fact of graduation at the completion of the required course.

(e) Candidates from other States must present credentials of graduation from an institution having a course of study at least equivalent to the high school course of study prescribed in this State, and such credentials must be forwarded to the State superintendent for approval.

*The school year* is divided into 2 terms, but may not consist of more than 40 weeks.

*The compensation* is \$1.00 a week for each pupil; but no allowance will be made for any pupil (a) not shown to be eligible, or (b) who leaves the class before the expiration of the term except by permission of the State superintendent.

*No pupil* may be admitted after the report of organization has been forwarded.

*Four hours a day* must be occupied in study or instruction, or in observation of model teaching, or in practice work.

*Two blank forms* for notice of organization are furnished, and one must be forwarded to the department of public instruction at the end of the 3d week after the organization of the class, the other being filed with the local superintendent.

*A daily register* will be furnished each class in which the daily attendance must be kept. The qualifications of each candidate must be entered in this register, and the credentials filed for inspection in the office of the local superintendent.

*The minimum course of study, to be completed in not less than 450 hours, is as follows :*

1. Psychology and principles of education.....	90	hours
2. History of education.....	30	"
3. School management.....	20	"
4. Methods in mathematics.....	40	"
5. Methods in { nature study and physiology and hygiene } { plants animals minerals } .....	40	"
6. Methods in reading, spelling, and phonics.....	30	"
7. Methods in language, composition, and grammar.....	40	"
8. Methods in geography.....	30	"
9. Methods in form study and drawing.....	40	"
10. History, civics, and school law.....	30	"
11. Physical culture, with methods.....	40	"
12. Methods in music.....	20	"

*At least 50 hours must be spent by each member of the class in practice teaching.*

*Special examinations* will on application be furnished by the department of public instruction, in order that the members of city training-classes may be eligible to appointment in the schools of this State outside of their own city, to begin on the 3d Thursday of January, and the 2d Wednesday of June. Members will be exempt from re-examination in any subject in which they have attained 75 % at the last preceding examination, but will not be admitted to examination in any subject they have not regularly pursued in class. The members will not be allowed to enter any other uniform examinations during their course of study.

*Training-class certificates* will be given to those who attain 75 % in the several subjects, when the local superintendent states that he deems the candidates worthy. These certificates are good for 3 years, and are renewable like uniform 1st-grades.



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PART II  
THE TEACHER





# THE TEACHER

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## CHAPTER I

### THE TEACHER'S QUALIFICATION

*Necessity of a license.*—In most States of the Union no person can legally contract to teach in any public school unless he holds a certificate of qualification, granted by an authority established for this purpose by statute. (See pages 33, 105.)

*How licenses are obtained.*—No person can contract to teach or draw pay for teaching in the public schools of New York who is not legally qualified by holding an unexpired and unannulled certificate of one of these nine kinds (vii. 38):

- a.* A uniform certificate of the 1st, 2d, or 3d grades.
- b.* A training class certificate.
- c.* A drawing certificate.
- d.* A kindergarten certificate.
- e.* A vocal music certificate.
- f.* A college graduate's certificate.
- g.* A State certificate.
- h.* A normal diploma.
- i.* A temporary license.

**a. Uniform certificates.**—These are granted upon examinations held by the school commissioners at stated times upon questions prepared and sent out

sealed by the Department of Public Instruction at Albany. The papers of candidates are forwarded to Albany, and there examined and marked by a board of examiners.

Similar laws have been enacted in other States Ala. (1899, p. 217); Ind. (1899:206).

**3D GRADE.**—This certificate is open to persons without experience. The subjects are (1) American history, (2) arithmetic, (3) composition, (4) geography, (5) grammar, (6) orthography, (7) penmanship, (8) physiology and hygiene with questions upon the effects of narcotics and stimulants, (9) reading, (10) school law.

See the table facing title-page.

The candidate must reach 75 per cent in each subject.

He need not pass the entire examination at one trial, but may obtain the required standing at any four successive trials within one year.

The certificate will not be given till the candidate has made an engagement to teach approved by the commissioner, which must be within 6 months of the final examination.

A commissioner refusing to grant a certificate to teach a large school to an applicant whom he considers competent to teach and govern a smaller school, will be sustained unless it clearly appears that he so decided from improper motives (D. 3597).

If the candidate wishes to teach in another commissioner-district, the commissioner of the district in which the teacher was examined must upon requisition forward the standings to the commissioner in whose district the candidate wishes to teach.

A teacher must attend the examinations in his own district or obtain permission of his commissioner to attend those in any other district; otherwise the certificate obtained in such other district need not be endorsed (D.4728).

It is good for one year from the time it is issued. Only one 3d grade certificate will be granted to the same person. The next time he must secure at least a 2d grade.

**2D GRADE.**—This certificate is open to those who have had at least ten weeks experience.

The subjects, in addition to those for the 3d grade are (11) civil government, (12) current topics, (13) drawing, (14) methods and school economy.

The candidate must reach 65 per cent in drawing, and 75 per cent in each of the other subjects.

Teachers who have earned 3d grade certificates will be exempt during the time such certificates are valid from further examination in the 10 subjects, and by passing in the 4 additional subjects may receive a 2d grade certificate.

They may obtain the required standing within 2 years from the date of the first examination they attend.

The certificate must be issued within 6 months of the time of the final examination, and will be good throughout the State (D. 4888) for 3 years. Only one certificate of this grade is granted to the same person. The next time he must obtain a 1st grade.

**1ST GRADE.**—This certificate is open to persons who have taught at least 2 years.

The subjects are in addition to those of the 3d and 2d grades, except reading, (15) algebra, (16) book-keeping, (17) physics, (18) advanced English, (19) history of education.

The candidate must reach 65 per cent in drawing, and 75 per cent in each of the other subjects.

Candidates who attain the required percentage in any of the subjects but not in all, will receive partial certificates; and on passing in the remaining subjects at either or both the next two examinations will receive full certificates. Those failing to obtain a 1st grade, but acquiring a standing sufficient for a 2d or 3d grade certificate, are entitled to such certificate.

Persons who attain 90 per cent in each subject for the 2d grade certificate will be exempt from examination for 1st grade certificates in the 14 subjects, and will be allowed 3 years in which to complete the examination in the other 5 subjects. Persons who have taught 5 years successfully on a 2d grade certificate in examination for 1st grade certificate will be exempt from examination in subjects on which they attained 75 per cent on their present 2d grade certificate.

The certificate must be issued within 6 months of the final examination, and will be good throughout the State (D. 4888) for 10 years.

If the holders have taught under them successfully 5 years, they may be renewed by any commissioner in the State for corresponding periods *without examination*.

**Endorsements.**—To be valid, certificates must be endorsed by the commissioner of the district in which the school is to be taught, but the possession of a 1st or 2d grade certificate is sufficient evidence of qualification to make a contract valid, since commissioners *must* endorse it unless there is valid reason to the contrary (D. 4888). With such reason he may refuse (D. 4743).

**b. Training-class certificate.**—This is open only to members of training-classes (see page 78).

The subjects, in addition to those of the 2d grade certificates, include the history of education.

The candidate must reach 75 per cent in *every* subject.

The certificate is good for 3 years.

It may be renewed without examination, like a 1st grade certificate.

**c. Drawing certificate.**—This certificate is open to persons (*a*) of one year's successful experience in public schools; or (*b*) who have had one year's work in professional training in a New York State normal school or training-class.

The candidate must reach the standing required for a 3 grade certificate.

The certificate is good for 3 years, and is renewable like 1st grades. It entitles its holder to teach drawing only.

The subjects are those of a 3d grade certificate, and a special examination in drawing, to be held on the day before.

**d. Kindergarten certificate.**—This certificate is open to those who have had one year's professional training in kindergarten work in a New York State normal school or training-class.

The subjects are methods, school economy, history of education, art of questioning, and kindergarten work.

The candidate must reach 75 per cent in each subject.

The certificate is good for 3 years, and is renewable like 1st grades. It entitles the holder to teach in a kindergarten only.

**e. Vocal music certificate.**—This certificate is open to candidates who establish to the satisfaction of the State superintendent that they are qualified to teach vocal music.

It is issued for 3 years, and is renewable like 1st grades. It entitles the holder to teach music only.

These regulations for special certificates in drawing, kindergarten, and vocal music went into effect Jan 1, 1896. Previously New York had required regular certificates of all special teachers (xv. 24), though in many other States distinctions have been made in their favor.

Thus N. J. (139) requires of special teachers examination only in the subject to be taught; Wash. (42) and Colo. (44) exempt specialists in music, languages, drawing and painting; S. Dak. (12) adds to these teachers of book-keeping and kindergarten; and Utah (12) says that teachers of special subjects may be paid though they hold no certificates.

**f. College graduate certificate.**—This may be granted by the State superintendent to college graduates of three years successful experience.

To be eligible the candidate must first have secured by examination a 3d-grade uniform certificate.

A graduate of an approved college who has completed an approved pedagogical course will on certificate from the proper college authority receive a *college graduate professional certificate* valid for three years. During this period his work will be inspected, and if it be satisfactory the certificate will be made permanent.

To meet the requirements of the statute relating to the professional training of teachers and the regulations of the department, established in accordance therewith, a college or university organizing a teachers' training department must comply with the following conditions:

(a) Establish a regular chair of pedagogy; (b) adopt a professional course of study approved by the State superintendent; (c) furnish at the beginning of each year a list of the students registered for this course, and at the close of the year a report of the year's work.

The course must include during the last 2 years 30 hours in logic, 40 in history of education, 60 in psychology, and 120 in philosophy and principles of education.

Before entering upon the course students must pass an elementary examination in arithmetic, algebra, American history, civics, geography, physiology, physics, grammar, English composition, and orthography, attaining 75% in each subject.

Where equity demands it, students may be allowed to take this examination after entering upon their professional study.

**g. State certificate.**—This certificate is open to persons of at least two years experience.

The subjects (see table opposite title page), in addition to those for 1st grade, are (20) *analysis* (grammatical), (21) *astronomy*, (22) *botany*, (23) *chemistry*, (24) *geology*, (25) *general history*, (26)

geometry (plane), (27) literature, (28) philosophy of education, (29) rhetoric, (30) zoölogy. The ability to read easy (31) French or (32) German at sight, or (33) Latin though three books of Cæsar, will be accepted in place of astronomy or zoölogy.

The candidate must reach 75 per cent in the subjects italicized, and an average of 75 per cent in the rest, but no paper marked less than 50 per cent will be considered in this average.

A candidate who passes in any 5 subjects, except orthography and penmanship, but not in all, will receive a partial certificate for those in which he has passed, and on passing the rest at either or both the next two examinations will receive a full certificate. Within five years of issue, these partial certificates will be recognized by commissioners in the subjects in which the candidate has attained 75 per cent.

The certificate is good for life.

The examination papers for all the Uniform and State examinations that have been held are published in book-form in various editions, and may be had from the publisher of this volume.

**h. Normal diploma.**—In New York the diploma of a State normal school (see pages 70–72) is a life certificate to teach in this State.

This is not the practice in most other States.

**i. Temporary licenses.**—In addition to the foregoing certificates, the State superintendent of public instruction will, in his discretion, issue temporary licenses for a time not exceeding 6 months, but only in cases in which public convenience absolutely requires it, and then only upon the recommendation of the school commissioner having jurisdiction.

No temporary license will be granted unless satisfactory evidence is furnished that the candidate is qualified, and sufficient reasons are given why the candidate is not the holder of a regular certificate.

*Certificates of other States.*—The New York law permits the State superintendent to endorse the cer-

tificates of other States, and the Department will endorse life certificates and normal diplomas from States which endorse New York certificates, and which maintain standards corresponding with those of New York.

It has hitherto declined to endorse limited certificates, but may consider limited certificates from States which endorse our 1st grade certificates.—*S. B.* xxi. 168.

Comparatively few States have thus far given power to endorse certificates from other States. Ks., Mich., N. J., Ore., Tenn., Vt., Wash., Wis., now permit this; and Neb. endorses normal diplomas.

*Examination a requisite.*—It will be observed that in New York all licenses now depend upon examination, and this rule is becoming universal in all States.

In the few States where the employing authority is still also the licensing authority a formal examination is sometimes waived, as the employment of the teacher is in itself an evidence that the licensing authority has decided that he is competent to teach. R. I. (256).

The tendency is also to trust less and less to the general impression of the examiners and depend more and more on fixed requirements. The uniform examinations of New York, where the same questions, prepared from a central office, are used simultaneously all over the State, and papers examined at the central office, have set an example which is bearing influence in all directions, and in some States is already followed.

In many States teaching is limited to those subjects in which the candidate has been examined, La. (8, 35), Pa. (135), Va. (89), Nev. (20). In some the wages are made dependent on the grade of the certificate. See page 119.

Some States impose special penalties in the law against those who shall be dishonest in the examination. Thus, in Ky. (35) and in So. Dak. (4), any person who unlawfully obtains, or attempts to obtain, or sells, barter or gives away to an applicant for a certificate, or any other person any question or questions prepared or sent out by the State board of examiners, is guilty of misdemeanor, and must be fined not less than \$50 nor more than \$100; and in Fla. (20), any person or persons who are found guilty of securing or attempting to secure the prepared questions, or who furnish the pre-

pared questions to any teacher or other person in any other way than prescribed, are debarred from teaching a school or from holding any school office in the State.

*Further requirements.*—While examination is commonly the first step toward obtaining a license, it does not of itself entitle a candidate to a license. It is sufficient proof of scholarship; but the examining-officer is required to satisfy himself also that the candidate is personally a fit person to be a teacher, and he must refuse a license unless the evidence on this point is satisfactory to him.

A commissioner is justified in withholding a certificate to teach from any applicant, *where he is satisfied that evidence of good character does not appear.* \* \* \* It must be borne in mind that the commissioner is the servant of the people, pledged to protect their interests and rights in matters pertaining to the education of their children, and he has no right to imperil these interests by legalizing the presence and labors amongst them of a person concerning whose moral reputation there is a doubt. (D. 4202, 3750), Pa. (241).

But renewal cannot be refused for saying to a pupil, "If you do not stop your monkeying, I will heat a poker red-hot and pass it down your back," if on the whole a successful school has been conducted (D. 3614).

It is obvious that a teacher might have the necessary literary acquirements and capacity to govern, and be a person of good moral character, and yet be an unfit person for the services required. A teacher might have personal habits or manners so offensive as to make his influence upon the scholars injurious. He might be too severe in his requirements; inclined to devote too much time to the older or better scholars, at the expense of the younger or more ignorant; a person of strong prejudice; a decided partisan and propagandist in politics or religion; unskilful in imparting knowledge, or unable to appreciate the difficulties of beginners; and still be a person of sound morals, great learning, and undoubted capacity to govern. Yet all these considerations might very properly be regarded in considering "his qualifications for teaching" <sup>1</sup>. See R. I. (249).

The following principles laid down in the Ky. Report for 1878, p. 180, will always be of much weight:

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<sup>1</sup> 178.



The qualification required of a candidate is to *teach* the elements of a plain English education. It is not unfrequently the case that a candidate may be thoroughly versed in certain branches, and yet be void of all aptitude to impart instruction and draw out mind [*sic*]. The board in grading a certificate, should therefore address itself more to the teaching capacity of an applicant than to the amount of knowledge he may possess. The *art* of teaching being of so great importance, the examiners should value highly a habit of inquiry into the best modes of instruction. If the candidate has read and is familiar with the best treatises on pedagogics, and is a subscriber to a school journal, these facts should add at least 20 per cent to the merit of an examination, and also help to determine the class and grade of a certificate.

In this matter the law leaves much to the discretion of the licensing officer, but it does not permit him to refuse a license out of malice or ill-will<sup>1</sup>.

It has been decided that in such a case the teacher may recover damages at law; nor is he compelled in order to show malice on the part of the officer to prove personal malice or ill-will, for if the officer acted rashly, wickedly, or wantonly in refusing the license, the jury may find malice<sup>2</sup>.

The New York law requires the commissioner to inquire into the moral fitness and capacity of candidates before granting them certificates of qualification (p. 16), and a commissioner is under no obligation to give a reason for not granting a certificate (D. 3817).

All the reasons that justify the annulling of a license (see pages 99–104) still more justify the withholding of a license.

The Ark. School Law (36) forbids granting a certificate to a teacher who does not believe in the existence of a supreme being, and the R. I. Law (307) says :

While a committee should not endeavor to inquire into the peculiar religious or sectarian opinions of a teacher, and should not entertain any

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<sup>1</sup> 88, 115.    <sup>2</sup> 30, 36.

preferences for or prejudices founded on any such grounds, they ought without hesitation to reject every person who is in the habit of ridiculing, deriding, or scoffing at religion.

But some States warn against any reference to religion. Ariz. (27), Wy. (35).

*The teacher may appeal.*—In New York, the proper appeal is to the State superintendent. See page 135.

The courts cannot compel the licensing officer to grant a certificate <sup>1</sup>, but they may compel him to act upon an application for one <sup>2</sup>, and if he acts from corrupt motives he may be held to have acted maliciously.

*Restriction upon city and village teachers*<sup>3</sup>.—In cities and in villages employing a superintendent (see page 18) (*a*) *primary and grammar teachers* must either (1) hold a New York State or college graduate certificate or normal diploma; or (2) have had 3 years successful experience and a valid certificate; or (3) have graduated from high school, academy, or institution of like rank, and subsequently from a training-class (see page 78).

The city may require additional qualifications, but one of these three must be insisted on.

A normal diploma from another State will be sufficient, when the course has been approved by the State superintendent.

The high school, academy, or institution of like rank must have a course of study approved by the State superintendent and the training class must have a course of study of not less than 38 weeks, also approved by the State superintendent. For his requirements, see pages 60, 78.

(*b*) *High school teachers*<sup>4</sup> are not subject to these restrictions, the only requirement being that they hold some valid form of license.

*Licenses may be annulled* in New York for lack of :

(*a*) Moral character ; (*b*) learning ; (*c*) ability to manage the school ; (*d*) attendance at institute ; (*e*) keeping engagement to teach.

A certificate once obtained is in New York conclusive evidence of scholarship (D. 4268).

<sup>1</sup> 36.    <sup>2</sup> 97, 43 Ia. 592, 37 Conn. 103, 23 Neb. 655. N. W. Rep., N. S. ii. 1009; High's Extraordinary Legal Remedies §§ 24, 34, 43.    <sup>3</sup> By chap. 1031, laws of 1895.    <sup>4</sup> See circular of State superintendent going into effect Aug. 1, 1901, afterwards rescinded.

**a. Moral character.**—In New York any form of certificate may be annulled by the commissioner (v. 13.6) or by the State superintendent (i. 11) upon satisfactory evidence against the moral character of the holder. See page 16.

This is justly regarded as a severe, almost a disastrous punishment, and in all States precaution is taken to guard the teacher against injustice. Thus :

(1) ONLY PRESENT OFFENCES CONSIDERED.—A certificate may not be annulled for moral delinquencies *known at the time of issuing the certificate*, where no subsequent bad conduct of the kind is known to have occurred.

On the other hand it may be annulled for any cause which if known at the time of issuing the certificate would have been sufficient ground for withholding it. Mont. (50), Neb. 46), N. D. (53, 60), Ore. (69), S. D. (7).

(2) THE TEACHER MUST HAVE NOTICE, and opportunity to defend himself (v. 13.6) ; R. I. (251).

The notice should be at least 10 days<sup>1</sup>. The respondent must have opportunity to defend, to confront, and to cross-examine the witnesses against him (D. 3510).

In some States, where the offence comes under the personal observation of the commissioner, as where a teacher writes to the commissioner a scurrilous and obscene letter (D. 3923), no notice is required. S. D. (60).

(3) THE CHARGES MUST BE DEFINITE AND SPECIFIC ; if of an immoral habit, one or more instances must be specified.

No general charge of immoral character will be sufficient to put a person on the defensive. The charges should specify immoral acts of the teacher and should be drawn with as much care and distinctness as an indictment, so that she may know just what she must meet (D. 3510).

(4) THE OFFENCE MUST BE SERIOUS, so as to make the teacher's presence dangerous to the well-being of the school.

In New York it has been decided that though intemperance is a sufficient charge (D. 1942), the annulment may be withheld where there is fair hope of reform (D. 1907. See Ala. [31] ; Ohio [139]). A single profane expletive uttered out of school and under sudden provocation would not warrant annulment (D. 2003).

In New York a certificate may not be annulled because the teacher does not pay his debts (D. 3686), though in 1877 the State superintendent of Wisconsin decided otherwise.

But the State superintendent will annul any certificate for frequenting saloons and disorderly houses (D. 3863), for advertising pictures supposed to be obscene (D. 3866), and for inflicting cruel punishment (D. 3863).

All States authorize the revocation of certificates for immoral conduct. Fla. (23, 38) specifies "proven guilty of any *gross* immorality". Cal. (31) and Ore. (14) add "for unprofessional conduct"; N. C. (43) adds "or other conduct unbecoming a teacher"; Pa. (241, 248) and Ga. (21) add "cruelty"; S. D. (10) and Mont. (50) add "intemperance, cruelty, crime against the law", and Ga. (21) and Ohio (129) name "intemperance, habitual profanity, dishonesty, larcency, and other violations of law".

Arizona (27) says: "Any teacher who shall use any sectarian or denominational book or teach any sectarian doctrine, or conduct any religious exercises in his school, or who shall fail to comply with any of the provisions mentioned in section 89 of this act, shall be deemed guilty of unprofessional conduct, and it shall be the duty of the proper authority to revoke his or her certificate or diploma." Compare Ark. (36), R. I. (307). See page 97.

Immorality in the teacher is so serious a menace to the community, that when he knows of it the commissioner should take action immediately; he need not wait for charges to be preferred.

If a county superintendent knows a teacher to be immoral, or to be guilty of any offence which would justify a county board of examiners in withholding a certificate from him, the county superintendent should revoke the certificate of the teacher, even though no formal charges are preferred against him. In other words the county superintendent has the right, and it is his duty as a protector of the people from imposition, to make the charge himself, if it is not made by others.—Wash. (132).

**b. Deficiency in learning.**—In New York, commissioners have no longer the right as formerly (D. 2194) to annul certificates for deficiency in learning, or to re-examine a candidate holding a certificate.

The State superintendent may however annul a certificate for any cause (i. 11). But see 21 Barb. 252.

Since June 30, 1894, the school commissioners in the State have no power under the school law to re-examine any teacher holding a predecessor's certificate, and if he find him deficient in ability or learning, to annul his certificate (D. 4268).

In Minn. (61), a superintendent may cite for re-examination any person holding a license and under contract to teach, and if satisfied that the teacher is not of good moral character or has not sufficient learning or ability, may revoke the license, whereupon the teacher's contract becomes void.

**c. Ability to manage a school.**—Certificates may be annulled for deficiency in ability to manage the school.

In New York, commissioners no longer have the power to annul certificates for this cause (D. 4268); but upon cause shown to his satisfaction, the State superintendent may annul any certificate of qualification to a teacher by a school commissioner, or declare any diploma issued by a State normal school ineffective and null as a qualification to teach a common school within this State, and he may reconsider and reverse his action in any such matter (i. 11).

The State superintendent writes to the author of this volume on March 9, 1896, "I am of the opinion that the power conferred upon school commissioners to annul a teacher's certificate is that contained in subdivision 6 of section 13 of title 5 of the consolidated school law. \* \* \* I do not think this power extends to any other case except a charge of immoral conduct."

Hence the quickest remedy against an inefficient teacher is now probably to break the contract by dismissing him (see page 124), and let the teacher appeal if he choose to the State superintendent. But direct appeal may be made to the superintendent (see page 132) to annul the teacher's certificate, and if the superintendent does so the contract is at once terminated. See page 107.

In this matter the Department will doubtless be governed by the same principles that were enunciated in its decisions while commissioners had this power, and we give some of the more significant, with corresponding decisions in other States.

On Dec. 28, 1886, Commissioner Perrin A. Strough revoked the license of Jessica Wells, teaching in No. 6, Cape Vincent

after an examination at which the teacher and her counsel were present. There was no charge against her character, but it was claimed that she neglected her classes and was faulty in her methods. But two weeks before the commissioner had visited her school and had written in the register, "I am well pleased with all the school work, and believe that if the teacher had the hearty co-operation and support of the parents, this would be a term of school marked with more progress than any school I ever visited here." *The annulment of a license is not to be resorted to for the purpose of removing a teacher from the school because people in the district are dissatisfied with her.* Moral delinquency, or a deliberate infraction of school laws, or the wilful defiance of the proper suggestions or directions of supervisory officers, or utter inability to follow them, may be sufficient ground for annulling licenses, but nothing less grave than this is (D. 3572). See pages 124 to 134.

The action of a school commissioner revoking a teacher's license sustained, when the holder while teaching had engaged in other pursuits, and in consequence *neglected* his work in the school, and where it became apparent that the teacher had lost all interest in his work, had become lax in discipline, and had neglected to preserve order in the school. (D. 3886) Pa. (248); N. D. (60); S. D. (10); Ga. (21); Neb. (46); La. (6).

The annulment may be effected without notice, if determined upon at a personal visit, but only when the result of positive observation, Fla. (19), and not through malice and wantonly<sup>1</sup>.

Inability to maintain order is sufficient cause, but specially adverse circumstances must receive consideration (D. 1982).

Certificates may be annulled for unnecessary and cruel punishment, but not for choking or severe blows where resistance is encountered. But certificates may not be annulled on account of personal ill-will toward the teacher in the district. See above. See also *Wis. Jour. of Ed'n*, 1876, p. 296.

It appears hardly proper that a highly successful teacher, long believed to be excellently qualified, should be forced to abandon her chosen profession in which she has advantageously labored twenty years on the strength of an opinion based on a fifteen minutes' observation of her school (D. 2480).

Frank F. Gray, teaching the village school of Wellsburg, received on December 7, 1886, a notice from Commissioner Nichols that he should annul

his certificate December 18 for "want of sufficient ability to teach". There had been dissensions in the district but "the assurances of prominent citizens of the locality whose credibility is undoubted, go to show that he is a man of sufficient general ability to teach school successfully, and, I have no doubt, will do so if he can have the general good will of the community. No one can succeed without this. There is little reason to believe that the work of a teacher who might succeed him would have more cordial or general support than his work has." The order annulling the certificate is revoked (D. 3959.)

Among specifications of other States under this head Ariz. (4, 14), and Cal. (31), name evident unfitness, and Ohio (129), manifest incompetency; which last word is used by Ga. (21), La. (4), Mont. (8), Neb. (45), N. J. (10), Pa. (241, 248), S. D. (10), etc. Fla. (23, 33) says "when the holder proves to be unsuccessful, incompetent;" and R. I. (251), "for failure properly to instruct and govern."

**d. Attendance at institute.**—Wilful failure on the part of a teacher to attend a teachers' institute as required, is sufficient cause for the revocation of a teacher's license (x.6).

Most States have a similar provision. La. (33), Neb. (53), Ore. (73), S. D. (10), Utah (12), Vt (15), Wash. (129), etc.

**e. Keeping engagements.**—Any failure on the part of a teacher to complete an agreement to teach a term of school without good reason therefor, is deemed sufficient ground for the revocation of the teacher's certificate (vii. 47.9). See page 103.

Mont. (45) suspends the certificate for 6 months, or one year, and Cal. (27) for one year.

In Vt. it has been decided that a teacher who contracts to teach for a definite time and gives up the school without just cause cannot sustain an action for such services as were rendered<sup>1</sup>.

**Various derelictions.**—Some offences that have been specified as warranting the annulment of a certificate are as follows :

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<sup>1</sup> 400, 405.

In New York falsification of the register of attendance (D. 3853 $\frac{1}{2}$ ); in Mont. (50), N. D. (60), refusal to perform his duty; in Va. (93) closing school on a school day; in Kan. (9) failure to pay reasonable attention to the suggestions of the county superintendent.

Va. (88) and R. I. (225) say that certificates will be liable to revocation "for good cause", and N. C. (43, 44) authorizes the county superintendent, with the approval of the chairman of the board of education, to revoke a certificate "for the same cause or other causes damaging to the school interests and satisfactory to himself".

*The teacher's defence.*—In regard to this as to other acts of school officers by which he feels himself aggrieved, the teacher may appeal to the State superintendent, whose decision is final. See page 135.



## CHAPTER II

### MAKING THE CONTRACT

*Prerequisites.*—To enter into a legal contract to teach, the applicant must possess the following qualifications :

- a. He must hold a valid license to teach.
- b. He must be of the required age.
- c. He must not be a relative of the trustees.

**a. Necessity of a license.**—The applicant must hold a valid license to teach<sup>1</sup>. See pages 33, 89.

This restriction does not apply to superintendents of schools<sup>2</sup> (see page 18) ; though Pa. (224) makes the same requirements of city or borough as of county superintendents.

It applies to teachers of evening schools (Pa. [329]), and to substitutes (W. Va. [26]), though Utah (12) permits substitutes for a day or two to teach without certificates. See page 129.

(1) THE POSSESSION OF THE CERTIFICATE IS SUFFICIENT EVIDENCE OF QUALIFICATION ; no one has the right to urge against the teacher that his certificate is improperly granted<sup>3</sup>.

(2) THE TEACHER MUST HOLD THE LICENSE AT THE TIME THE CONTRACT IS MADE (D. 3670).

Some States explicitly require the candidate to exhibit the license to the trustees<sup>4</sup>.

It is not sufficient that this certificate be obtained after the contract is made, even if it be antedated, for "a teacher's certificate must bear the same date as the examination, and cannot legally bear any other"<sup>5</sup>. Ks. (65) ; Minn. (41).

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<sup>1</sup> 30, 31, 34, 35, 42, 45, 48, 53, 56, 63, 68, 75, 79, 81, 84, 103, 144, 148, 219, 221, 222, 377, 395, 399. But see 255, 309, 331, 408, 418, 419.

<sup>2</sup> 216.      <sup>3</sup> 33, 47, 70, 251, 350, 397, 414,      <sup>4</sup> 5, 30, 31, 35, 48, 53, 56.

<sup>5</sup> 16, 31, 48, 53, 79, 81, 145, 219, 221, 309. But see 69, 397, 402, 406, 418.

Of course this restriction as to dating does not apply to the subsequent dating of certificates in New York. See p. 90.

In Vt. it has been held that wages could be collected for teaching under an antedated certificate <sup>1</sup>. Compare on page 107.

In some States, this does not render invalid a contract of employment entered into with a teacher before he obtains a certificate, *provided he obtains it before he begins to teach*<sup>2</sup>. Ariz. (25); Col. (43); Fla. (59); Neb. (38); Ohio (130); R. I. (222). An Ohio court<sup>3</sup> ruled:

The law forbids the *employment* of a teacher who has not a certificate. The teacher is not employed within the meaning and intent of this provision until he engages in the discharge of his duties as teacher. The mischief intended to be guarded against was the teaching of a school by an incompetent person, and not the making of a contract by an incompetent person.

In Iowa, the State superintendent decided, Dec. 21, 1887, that a teacher may legally contract with a board before receiving a certificate of qualification. However, she may not begin teaching without said certificate.—S. B. xiv. 83.

In Vt. it has even been held that the law is satisfied if the teacher obtains a contract on the evening of the first day of school<sup>4</sup>; and that if a person begins to teach without a certificate and continues to teach after obtaining one, he is considered to have made a new contract, beginning at the time when the certificate was obtained, and having the same terms as the one under which teaching was begun<sup>5</sup>.

In Minn. a person began teaching under a contract. He taught three weeks; then obtained a certificate and made a written contract to run three months from the time he began teaching. Held that he was entitled to wages after the certificate was obtained, but to no pay for the previous three weeks<sup>6</sup>.

In Ill., a certificate was not obtained till the middle of the term. A new contract was entered into at that time to pay the teacher double wages for the rest of the term. This was considered an attempt to do indirectly what there was no power to do directly; and therefore the contract was held void<sup>7</sup>.

In Mo. it has been held that under a statute requiring the teacher to produce a license before employment, the spirit of the law was complied with if the commissioner did not renew an expired license in presence of the trustees, in writing, but declared the teacher competent and gave his sanction to his going on with the school.<sup>8</sup>

(3) THE LICENSE MUST EXTEND OVER THE WHOLE PERIOD FOR WHICH THE CONTRACT IS MADE<sup>9</sup>. Ga. (21), Ia. (55), Minn. (41), (D. 4002, 3734).

<sup>1</sup> 418. See 16.      <sup>2</sup> 402.      <sup>3</sup> 337.      <sup>4</sup> 402, 419.      <sup>5</sup> 419.

<sup>6</sup> 220.      <sup>7</sup> 44. See also 31, 35, 48, 53; but 413.      <sup>8</sup> 222.      <sup>9</sup> 215.

It has been held that a teacher may be discharged if he cannot *produce* his license, the fact not being considered that one has been granted which has miscarried or otherwise been lost <sup>1</sup>. But usually the teacher may show that he was entitled to a certificate, if it is withheld by inadvertence <sup>2</sup>.

Some States are very liberal in this respect. In Vt. it has been held that where a teacher taught 5 weeks before his license expired and 6 weeks afterward without a new certificate, she should recover for the entire 11 weeks <sup>3</sup>. In Colo. (44) if the license expire within a month of the end of the term, he may finish the term without a new certificate; and Id. (27), N. D. (61); and Utah (12) extend this time to six weeks.

Of course the annulment of a license (see page 98) immediately terminates the contract, even though it be plainly illegal and an immediate appeal be taken (D. 2145). Ark. (37).

(4) AN UNLICENSED TEACHER CAN DRAW NO PAY FOR HIS SERVICES<sup>4</sup>.

It has been held that the licensing-officer may not procure a mandamus to prevent an unlicensed teacher from teaching <sup>5</sup>. But any tax-payer may enjoin payment to such a teacher <sup>6</sup>.

A trustee who pays public money to an unqualified teacher commits a misdemeanor<sup>7</sup> (ii. 15; vii. 39, 40).

The teacher may however enforce the contract against the trustee or trustees consenting to such employment as individuals (vii. 47,9).

There is even a provision in the New York law that the State superintendent may upon recommendation of the commissioner direct that certain money shall be paid in satisfaction of wages earned by unqualified teachers (ii. 8).

In Mich. it has been held that necessities may arise where an unqualified teacher cannot be procured, in which case district but not State moneys may be applied to this purpose. <sup>8</sup>

(5) AN UNLICENSED TEACHER MAY NOT EVEN TEACH WITHOUT PAY<sup>9</sup> (D. 3854).

(6) AN UNLICENSED TEACHER IS LIABLE FOR ACTION FOR ASSAULT AND BATTERY IF HE RESORTS TO THE SLIGHTEST CORPORAL PUNISHMENT. The teacher's authority comes from his license.

Horace Mann held that in such a case the teacher could be effectively defended:

On the other hand, some incline to the opinion that a teacher without a certificate, though not *in law* a teacher, yet is so *in fact*; and while the

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<sup>1</sup> 5.      <sup>2</sup> 406, 423.      <sup>3</sup> 412, 419.      <sup>4</sup> 44, 75, 84, 254, 331, 397, 402, 406.  
<sup>5</sup> 103, 254,      <sup>6</sup> 254.      <sup>7</sup> 377.      <sup>8</sup> 214.      <sup>9</sup> 75.

actual relation of teacher and pupil subsists, all the legal powers of a teacher attach to this relation, and may therefore be exercised by them. If a school kept by a teacher without a certificate is not a public school, then it must be a private school; and the teacher of a private school has as clear a right to inflict punishment, in exigencies that require it, as any other teacher, or as any parent.—10th Mass. Report, p. 169.

The courts have taken this view<sup>1</sup>.

Sup't Morrison decided (*S. B.* xii. 62) that the law does not prohibit one pupil from instructing others, but this could not be allowed as a substitute for an adequate teaching force. If a school is too large for the teacher, the trustee should provide an additional teacher.

**b. Required age.**—In New York the teacher must be at least 18 years old.

The minimum age-limit is now (1896) 16 in *Id.*; 17 in *Mich.* and *S. D.*; 18 in *Ariz.*, *Cal.*, *N. J.*, *N. D.*, *Utah*, *Va.*, etc. In *Md.* it is 18 for women and 19 for men. Several States exact higher minimums for certificates above the lowest grades.

**c. Relationship.**—The applicant must not be related to the trustee, or to any one of the trustees (*vii.* 47.9). See page 34.

Of course the trustee cannot hire himself<sup>2</sup>. See page 34 (*vii.* 47.9; *D.* 1665, 1753, 1803, 2114). *Ark.* (114); *N. J.* (20). *Pa.* (221); *Va.* (97).

This prohibition cannot be evaded by the trustee's delegating the hiring to his associates (*D.* 1825, 2217) or to the principal of the school (*D.* 2081).

But the hiring of a teacher who is related to the trustee within the prohibited degrees without the requisite consent of the voters at a district meeting being previously secured, is secured by subsequent action of the voters by a two-thirds vote approving of such employment. The trustee, the teacher, and their relatives, if qualified voters of the district, are entitled to vote upon such a question (*D.* 3758).

Nor can he hire the school commissioner. See page 14. *Md.* (17); *Mont.* (32); *R. I.* (66); *Wis.* (74).

**Minors.**—In most States a contract with a minor is binding upon the district but not upon the teacher, who as a minor may decline to fulfil the contract,

<sup>1</sup> 260, 258, 401.

<sup>2</sup> 136, 431.

or having taught for a time may decline to teach longer<sup>1</sup> (D. 2294).

In New York, however, failure on the part of the teacher to complete a contract without good reason is sufficient reason for revoking his certificate. See page 103.

The laxity of the law toward minors is intended for their exclusive benefit in protecting them from the frauds and deceptions which, owing to their weakness and inexperience, others of riper years might be enabled to practise upon them.

The teacher's wages must be paid to *him*, and not to his parent or guardian even though he is a minor<sup>2</sup>. See page 120.

**Married women.**—At common law married women are disabled from making such contracts, but in New York and most other States the right to make contracts and receive wages is given them by statute.

**Members of religious orders.**—Pa. (133) forbids any one while in the performance of duty as a teacher to wear any dress, mark, emblem, or insignia indicating that the person is a member or adherent of any religious order, sect, or denomination.

The N. J. legislature of 1896 rejected a similar law. In New York it is held that wearing an unusual and distinctive garb, one used exclusively by members of a certain religious sect, and for the purpose of indicating membership in that sect, by public school teachers, constitutes a sectarian influence prejudicial to the interests of the public school system and must not be persisted in. Pupils in a common school should not be permitted to address the teachers by an assumed religious name, as Sister Mary or Sister Martha, but by their family name with the prefix, Mr, Mrs., or Miss, as the case may be (D. 3520). See page 45.

<sup>1</sup> 147, 165, 290, 385, 396, 422, 434, 439.

<sup>2</sup> 1, 102, 105, 147, 164, 165, 166, 195, 290, 364, 396, 443. See 415.

**Restrictions upon city and village teachers.** See page 98.

*With whom the contract is made.*—Every district in New York, not a union free school district has either one trustee, or three, or (temporarily) two. See page 22.

**a. If there be but one trustee,** it is only necessary that the contract be clearly understood and definitely expressed in writing. See page 113.

In New York, school trustees exercise authority almost unlimited. They must hire somebody for 32 weeks, and they may not hire a teacher for less than 10 weeks; but they may disregard the unanimous vote of the district as to the time of opening or closing school (D. 1976), the number of teachers (D. 4005), the sex of the teacher<sup>1</sup> (D. 1677, R. I. [210]), the wages paid (D. 1864), the conditions of the contract (D. 1738, 1831), and the individual selected<sup>2</sup> (vii. 47.9; [D. 1665, 1753, 1803, 2114]; Mich. [91], R. I. [21]). See page 33.

Where there is a dispute as to who is elected trustee, a teacher who enters upon a contract with the person who assumes the office of trustee with some color of right, and who begins work as a teacher, can collect his wages under the contract, even if forcibly prevented from completing his work. It is not necessary for the teacher to wait till the dispute is over before beginning school work<sup>3</sup> (D. 3586).

**b. If there be three trustees,** the law explicitly requires that the contract be made by a majority; and at a meeting of which all three have been notified<sup>4</sup> (D. 3582). See page 30. Ark. (112), Minn. (41), N. J. (20), etc.

The teacher may have his remedy against the persons employing him, but it can be enforced only by action (D. 3824).

<sup>1</sup> 175, 356, 425.

<sup>2</sup> 207.

<sup>3</sup> 98, 249, 269, 270, 310. But see 386.

<sup>4</sup> 4, 8, 40, 129, 210, 247, 268, 334, 336, 351, 357, 383.

The consent of the three trustees separately makes no contract. A contract made by two trustees in the absence of the third from the district may be annulled at any time by a majority of the three. But a contract may be made by two trustees when authorized by the third (D. 1910), or by one trustee when authorized to act as agent for the three<sup>1</sup>. A contract made by two trustees without consulting the third may be ratified at a subsequent meeting<sup>2</sup>; and a tacit concurrence of the third trustee (D. 1919), or even by two trustees when the bargain is made with the third in good faith, ratifies a fulfilled contract.

In Ia. should a board permit a teacher to engage in teaching, by so doing the board approves the contract of the said teacher, whether said approval appears upon the records of the district or not.—*S. B.* xiv. 38. So in Mich. <sup>3</sup>

**c. If there be two trustees, in the transition from three trustees to one, the contract should be made at a meeting of both.**

But when one gives to another due notice of a meeting which the other neglects to attend, a contract of the one with a teacher satisfactory to the inhabitants of the district may be approved.

**d. In union school districts the contract is usually made with the superintendent or the secretary, as agent for the board of education.**

The board may delegate to one or more of its members the power to hire and contract with teachers<sup>4</sup>.—*S. B.* xiv. 83. This is true also in districts.

**e. Relation of power to contract to term of office.**  
—The trustees have the power to hire beyond their term of office, for a term not exceeding one year<sup>5</sup>. A sole trustee has the same right (vii. 47.9; D. 3640, 4311).

<sup>1</sup> 155, 420, 445, 446. <sup>2</sup> 92. But see 428. <sup>3</sup> 216. <sup>4</sup> 123, 124, 155, 430, 445, 446.

<sup>5</sup> 20, 62, 89, 92, 98, 140, 186, 208, 278, 284, 299, 317, 397, 398, 424, 425. See 228, 330.

In some States, the trustees may not engage a teacher after their successors have qualified <sup>1</sup>, or before the annual re-organization of the board <sup>2</sup>, but may make contract for a term beginning after some members go out of office <sup>3</sup>. Ark. (85); Minn. (41). Ky. (48) even forbids that contracts for the coming year be made before July 1.

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<sup>1</sup> 48, 62, 71, 217, 228, 330.

<sup>2</sup> 48, 53, 429.

<sup>3</sup> 5, 89, 207, 212, 278, 430.



## CHAPTER III

### CONDITIONS OF CONTRACT

*Written contract required.*—The laws of most States require that the contract shall be written (vii. 47.10 ; xv. 17).

Va. (89-90) imposes a fine of \$50 upon any school-board that fails to enter into written contract in form prescribed.

A failure to give the teacher a written contract does not vitiate the contract<sup>1</sup> (D. 3640). But it makes it difficult for the teacher to prove what were the terms of the contract, in case there is a dispute (D. 3890). Where the case is difficult to determine (D. 3768, 4263), or where the amount of damages is indeterminate (D. 3768, 3797) the Department will refuse to interfere, and refer the matter to the courts. See page 135.

*Contract must be complete.*—In the absence of fraud, accident, or mistake, it will be conclusively presumed that the contract contains the entire agreement of the parties<sup>2</sup>.

When a teacher accepted a written contract for 16 weeks, but claimed to have been hired for 36 weeks, the burden of evidence to dispute the contract is upon the teacher (D. 3944).

The teacher is assumed to know the extent of the trustees' powers, and any restrictions or regulations made by the board of trustees<sup>3</sup>. But where the rule has not been printed or put on record and the teacher denies that he ever heard of it, the teacher is not bound by it (D. 3524).

*Specifications of contract.*—The New York law requires that the contract shall name :

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<sup>1</sup> 14, 109, 111, 231.

<sup>2</sup> 116.

<sup>3</sup> 110.

- a.* The duration.
- b.* The amount of compensation.
- c.* The times of payment.

The following are also important points :

- d.* Manner of payment.
- e.* Janitor work.
- f.* Precise work as a teacher.
- g.* Keeping the school register.

**a. Duration.**—New York requires that in district schools contracts shall be for definite periods of (1) not less than 10 weeks<sup>1</sup> (D. 3603, 3735, 3850, 3889) except for filling out an unexpired term of school ; and (2) of not more than one year (vii. 47.5). N.C.(28).

No such restriction is placed on hiring in union schools (viii. 15.11 ; D. 3653).

Some cities, like New York and Albany, make the engagement of teachers permanent, either at once or after a year or two of probation. In such cities teachers can be removed only for cause.

(1.) FOR SPECIFIC PERIOD.—Agreements between teachers and trustees that either party may terminate the employment at any time are against public policy. Employment should be for a specific length of time (D. 3678). Compare page 119.

The law does not permit trustees to assume dictatorial powers. It will not allow them to exact agreements of teachers into which a self-respecting person cannot enter ; nor will it allow them to turn a teacher out of the schoolhouse in the midst of employment only because of pique or spite, or in order to put some one else in. The employment must be at least for a reasonable length of time. It should be for a term at least—a time sufficient to enable a teacher to show proficiency or make so complete a failure that no district will employ him again (D. 3735).

The Supreme Court of Wisconsin says : “ If the board make a valid contract, reserving the right to discharge a teacher whenever they see fit, then the public schools must be taught to suit the whims, caprices, and peculiar notions of the hiring board, and not as the teacher in the conscientious discharge of his duty should teach the same. They could compel teachers of district schools to teach the same to the satisfaction of the boards who hire

them, instead of to the satisfaction of the people who compose the district, or in a manner most beneficial to the pupils, or as a good, competent, and faithful teacher ought to teach the same."—*S. B.* x. 134.

A rule that the teachers should be liable to discharge at the pleasure of the board is no defence to an action on a contract of hire for a specific term<sup>1</sup>.

A decision rendered Feb. 7, 1896, by the State superintendent of Washington contains this ruling :

In this case two questions arise at the outset upon the determination of which will depend the decision of the whole matter : First, Is the provision in the contract empowering the board to dismiss at pleasure operative? \* \* \*

On the first question raised the assistant attorney-general has advised this office as follows : " All authority of the school board to employ a teacher is traceable to some provision of law. Such law is not only the source of their authority but the limitation of it. The power to discharge a teacher is restricted by the provision that the discharge must be for sufficient cause. The board cannot, by the form of the contract they enter into with a teacher, give themselves greater powers than the statute has conferred upon them. No power whatever is conferred upon the board to discharge a teacher, except for sufficient cause. Any provision therefore in a contract with a teacher giving them the power to discharge at will is unauthorized and invalid." So Ohio (88).

But in States where the statute empowers the trustees to employ teachers and remove them at pleasure, this enters as part of any contract made under it, and a teacher may be discharged notwithstanding the terms of his employment<sup>2</sup> (*D.* 1845 ; cf. 3888 ; *S. B.* xv. 105).

(2) BY THE YEAR, OR BY MONTHS, WEEKS, OR DAYS.—Contracts should be made by the year, or for a certain number of months, weeks, or days<sup>3</sup>.

The school month is now almost universally regarded as four weeks of five school-days each<sup>4</sup>. Ariz. (24), Ark. (54), Cal. (27), Fla. (25), Ia. (54), Kan. (44), Mich. (22), Minn. (42), Mont. (45), Neb. (50), Nev. (27), N. J. (26), N. C. (28), N. D. (61), Ore. (28), Pa. (157, 248), S. D. (37), Va. (97), Wis. (67), Wyo. (42), etc.

Where engagement is by the month, and teachers receive one-twelfth of the annual salary each month, a teacher who has completed the school year must be paid for the vacation months, even if she has declined to remain.—*S. B.* xiv. 95.

<sup>1</sup> 15, 230, 437.

<sup>2</sup> 68, 128, 173, 190, 246, 251, 417.

<sup>3</sup> 190.

<sup>4</sup> 314.

Where a teacher was first engaged in 1880; in the summer of 1881 was hired for another year; and in the summer of 1882 was hired "for another term at a salary of \$900 per annum", and discharged Nov. 29, 1882, held, that the contract did not expire till the end of the school year, in June, 1883. —*Sup't Gilmour*, N. Y., April 5, 1883.

As to hours of school, see page 144.

3. HOLIDAYS.—Unless otherwise specified, the contract requires no school upon holidays (see pages 10, 35).

When a holiday comes on Sunday, it is celebrated on the Monday following. Pa. (160). See page 10.

For these days no deduction from wages is to be made. Ore. (28), N. J. (26), etc. But if the teacher keeps the school open on a holiday, he is not entitled to have such day's service counted in lieu of another day not a holiday, except by agreement with the trustees<sup>1</sup>. Fla. (59), Mich. (90), Minn. (42), Mont. (45), N. D. (61), Pa. (247), S. D. (32), etc.

The custom is so well established of keeping the school in session on the five work-days of each week exclusive of Saturday, that to change this custom would require action by the board, but they may authorize that there shall be no session on Monday. Ohio (86).

In Ohio (86) teachers may dismiss their schools without forfeiture of pay on the holidays named.

In Iowa (54) it is lawful for a board to give teachers holidays and not deduct pay, and quite usual. The teacher, however, may not claim it as a right.

(4) INSTITUTE WEEK.—The statute requires that the teacher receive full pay for institute week (ii. 6). See pages 17, 35, (D. 3794, 3892), Ark. (72), Id. (27), Ore. (40), Wyo. (43), etc.

Schools in cities and incorporated villages employing a superintendent (see page 18) are not compelled to close for the institute, or to allow their teachers pay for attendance (x. 4).

The trustees of every school district are directed to give the teacher or teachers employed by them, the whole of the time spent by them in attending at an institute or institutes held as hereinbefore stated, without deducting anything from the wages of such teacher or teachers for the time so spent. All teachers *under a contract to teach* in any school commissioner district shall attend such institute so held for that district, even though at the time the school is not in session, and shall receive wages for such attendance (x. 4).

A teacher must be paid for the week spent at teachers' institute occurring during the term of employment. When, at the request of a board of trustees, a teacher taught an additional week, the teacher must be paid for that week at the contract rate. An attempt to compel a teacher to make up for the time spent at an institute will not be sustained (D. 3523).

Arranging a period of vacation by a trustee so as to avoid the payment of wages during the week of a teachers' institute, and which the teacher duly attended, is contrary to the statute (D. 3892).

Teachers will be entitled to pay for a week during which school was closed in consequence of a teachers' institute having been designated for that week, but not held because of storms and floods which rendered it impossible. Also, to the week to which the institute was adjourned and held, school having been closed (D. 3623).

A teacher may attend an institute outside her own district, if she has the consent of the trustee, the commissioner, and the State superintendent.—S. B. xx. 37.

In S. D. (32) teachers receive one-half pay for attendance. In Ore. (22, 73) they are paid for not more than 2 days.

For penalty if the teacher fails to attend the institute, see page 103.

A teacher of a district school neglected to attend the session of a teachers' institute, although the school was closed during the week, by the trustees' direction, because of a report which prevailed that a contagious disease was prevalent in the vicinity where the institute was held. *Held*, that the teacher was not entitled to recover pay for the week of the institute (D. 3829).

In Me. (47) the State even pays the necessary expenses for the holding of State *associations* of teachers, and teachers may suspend their schools for not more than two days in the year to attend such associations, and receive pay for their time.

The contract is sometimes conditional upon the teacher's attending local teachers' meetings.

(5) ENFORCED VACATION.—Where a teacher is prevented from filling a contract from misfortunes that happen to the district, he can recover for full time. The most common are :

- Prevalence of contagious diseases.
- Burning of the school-house.
- Wrangling among the trustees.
- Closing for lack of funds.

Va. (91) authorizes the trustees, with the approval of the county superintendent, to close the schools "for a sufficient cause", and pay the teacher for the time taught; and Ia. (54) while acknowledging the right of the teacher to full pay, says such cases are best settled by compromise.

*Contagious diseases.*—When school is closed on account of contagious or other sickness, the teacher may recover full pay<sup>1</sup> (D. 3706, 3791, 3840), *S. B.* vii. 115, Ky. (50), Minn. (41), Wis. (42).

The same principle applies when school is necessarily closed on account of a blizzard.—*S. B.* xiv. 98.

*Burning of the schoolhouse.*—The teacher recovers for full period of contract<sup>2</sup> (D. 3917), *S. B.* x. 93.

If the schoolhouse is not kept in good repair, the teacher may recover from either the trustees or the district for any injuries thereby sustained<sup>3</sup>.

*Wrangling among trustees.*—Three teachers were engaged in No. 1, Westchester, on Aug. 27, 1887. Through wrangling on the part of the trustees the school was not opened till Jan. 9, 1888. The teachers must be paid in full as though school had been in session (D. 3679). So as to payment<sup>4</sup>.

*Closing for lack of funds.*—Action of a board of education in resolving to close public schools for the reason that the corporate authorities upon whom the duty to provide funds devolves by law, neglect to provide necessary means, will not be upheld. Teachers under contract would have a remedy by law, if wages provided for by contracts were in default, although prevented from teaching by the closing of the schools<sup>5</sup> (D. 3993). See power of trustees to raise money, page 120.

*If the enforced vacation extended over some months,* it is possible that the teacher might be expected to use due diligence to find other employment. Compare page 120.

**b. Amount of compensation.**—Most States leave the trustees unrestricted as to the amount of salary they shall pay the teacher (viii. 47, 10; vii. 15, 11). See pages 34, 63.

In some States, as Cal. (67), Tenn. (14), Wy. (35), women teachers must be paid the same salaries as men for like work.

Some States, like N. D. (43), provide that the salaries of teachers shall be graded according to the grades of their certificates.

<sup>1</sup> 206, 422. <sup>2</sup> 67, 211 a. But see 241. <sup>3</sup> 280, 281, 307. <sup>4</sup> 331 a. <sup>5</sup> 222 e.

N. C. (28) fixes the maximum salary of 3d-grade teachers at \$15 and of 2d-grade teachers at \$25 a month, and authorizes the county board to place a maximum upon 1st-grade salaries.

Va. (67) provides that the pay of the teacher shall not be governed by the daily average attendance, provided this average exceeds 10.

Texas (21) gives to 1st-grade teachers \$2.50 per month for each child of school-age, with a maximum of \$75 a month; to 2d-grades, \$2.00 per month for each child, with a maximum of \$60; and to 3d-grades, \$1.50 per child. But this restriction does not apply to districts levying a local tax.

As in regard to duration, the contract should be specific, giving so much by the year, month, week, or day. See page 114.

EXTRA PAY is sometimes provided for, principally on the following grounds:

*For instructing non-resident pupils.*—This would require a special agreement with the trustees (D. 3623). The trustees have sole authority to admit pupils or to exclude them, and the teacher must instruct the pupils admitted. This applies also to pupils over school age.

The wrongful exclusion of a child by a teacher under direction of the trustees does not defeat the right to wages<sup>1</sup>; whether an action will lie against a teacher for refusing to instruct those who lawfully come to him for instruction, or whether the remedy is confined to an appeal to the governing board, Judge Cooley says (Torts, p. 288) is left in doubt by the authorities, though he thinks it actionable. As to colored pupils, see page 38.

*For instruction in outside branches.*—In New York public school teachers are not allowed to furnish instruction in school in certain branches upon payment of tuition, either to the teacher or to the trustees. Public schools should be free to all children of the district to receive any branch of instruction for which they are qualified (D. 3764).

Trustees who pay a fixed salary to the principal are not allowed to permit him to share in receipts from the teachers' class.—*S. B.* xxii. 3.

*For janitor work.*—While the teacher cannot be compelled to do janitor work, see page 121, on the other hand he cannot be paid for janitor work he does voluntarily, unless so agreed in the contract.—*S. B.* xiv. 83.

The trustees cannot deduct from the teacher's wages the amount they have paid for janitor work (D. 2139).

**c. Times of Payment.**—In New York, the pay of

any teacher employed in the public schools is due and payable at least as often as at the end of each calendar month of the term of employment (xv. 17).

A teacher who has not been paid as often as once each month during the term of employment as required by statute is entitled to interest on the several monthly payments which have been withheld, from the time when payable (D. 3803).

The provisions of the law give trustees full power to raise the money needed (vii. 14.16 ; vii. 47.12 ; viii. 11).

**d. Manner of payment.**—The teacher's wages are always due to him, and in cash.

(1) SALARY MUST BE PAID TO THE TEACHER.—Debts on notes due to other persons, even to the trustees, cannot be set off against the teacher's wages. The money due him cannot be attached<sup>1</sup>. Ky. (149), Minn. (50).

Even though he is a minor, the teacher's salary must be paid to him, and not to his parent or guardian. See page 108.

(2) SALARY MUST BE PAID IN CASH.—Contracts which involve an agreement to board with the trustee or to board around cannot be enforced. The teacher should have a specific sum as wages, and board himself (D. 3717).

He has a perfect right to change his boarding-place at any time. An agreement to the contrary with the trustee is illegal and void (D. 3575).

(3) HOW TO ENFORCE PAYMENT.—In case the trustees neglect or refuse to pay the wages due, they may be sued.

The trustees are a *quasi* corporation, possessing power in this and for this purpose to bind their district, and to create a corporate liability which will attach to their successors in their official capacity<sup>2</sup>.

A teacher is entitled to a writ of *mandamus* to compel the trustees to pay arrears of salary due him<sup>3</sup>.

He has his option to bring suit to recover money, or proceedings for a writ of *mandamus* to compel its payment. And if an order has been issued to him, and it remains unpaid, he may still have his choice of remedies. The creditor of a corporation is not restricted to *mandamus* as his sole remedy<sup>4</sup>.

The teacher has one of two remedies—action on the contract<sup>5</sup>, or a writ of *mandamus*<sup>6</sup>. *Mandamus*, and not an action for money had and

<sup>1</sup> 134, 137, 205.      <sup>2</sup> 41, 85, 87, 101, 125, 136, 145, 197, 229, 244, 262, 267, 297,  
346, 353.      <sup>3</sup> 262.      <sup>4</sup> 101.      <sup>5</sup> 145, 229, 353.      <sup>6</sup> 101, 262.



received, is a proper remedy to compel a clerk of the school district to pay over money in his hands applicable to a warrant issued in favor of a teacher for salary. The funds are the funds of the district until he parts with the custody of them <sup>1</sup>.

**e. Janitor work.**—Any other duties upon the teacher than those properly belonging to his work as a teacher, such as sweeping the schoolhouse, must be expressly stated in making the contract.

The teacher cannot be compelled to do janitor's work on the ground of local custom. A teacher who contracts simply to teach a school for a given number of months, for a given sum, is under no obligation to cut or carry in the fuel, sweep the schoolhouse, or make the fires. It is as much the duty of the trustees to have these things done (by the teachers and pupils if they *volunteer* to do them, or by paying for them otherwise) as it is to furnish a broom or a stove. The trustees have no power to compel either teacher or pupil to do these things (D. 4221, 4251). *Am. Journ. of Ed'n*, Feb., 1878. Ariz. (47), R. I. (253).

**f. Precise work as a teacher.**—Unless the contract specify that certain grades or subjects shall be taught, the teacher must accept whatever grades or subjects, within his capacity, are assigned by the trustees (D. 3898).

Unless otherwise stipulated, where there are several schools in the district, or several departments, the teacher must take any one assigned to her, even if it be a colored school<sup>2</sup>.

But the change of grade must not involve any reduction in salary, which would be equivalent to a discharge, and allowable only for the same reasons<sup>3</sup>. See page 124.

Under a complaint by a school teacher to recover salary based upon and alleging a full compliance with the terms of an express contract to teach as assistant principal in the high school department, where the evidence shows that she has materially violated its provisions in refusing to

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<sup>1</sup> 346.

<sup>2</sup> 64.

<sup>3</sup> 275, 303.

teach certain classes assigned to her by a new and recently selected principal when possessing the scholastic attainments and ability to do so, when the different members of the board frequently endeavored to persuade her to teach said classes, her defence being that neither the board of education nor the principal of the school had power to modify or change the assignment made by a former principal of the schools, *Held*, under the contract it was the duty of plaintiff as assistant principal to teach such classes and perform such duties, within the scope of her employment, as the principal of the school might reasonably assign or direct, and where plaintiff had wilfully and without justifiable cause failed and refused to perform her duties, a dismissal was justifiable and no recovery could be had for salary unearned.—*Morrow vs. Board of Education City of Chamberlain*, So. Dak., Sup'r Ct., Oct. 28, 1895.

**g. Implication in contract.**—Whether specified or not, teachers are by law required to fill the blanks in the school register, to preserve it, to verify its correctness by oath, and to deliver it to the district clerk (D. 3838). See page 49.

Teachers shall keep, prepare, and enter in the books provided for that purpose, the school lists and accounts of attendance hereinafter mentioned, and shall be responsible for their safe-keeping and delivery to the clerk of the district at the close of their engagements or terms (vii. 41).

In the other register the teachers shall enter (1) the names of the pupils attending school, (2) their ages, (3) the names of the persons who send them, and (4) the number of days each pupil attends; and, also, (5) the facts and the dates of each inspection of the school by the school commissioner or other official visitor, and (6) any other facts, and in such form, as the superintendent of public instruction shall require; and each teacher shall, *by his oath or affirmation, verify* his entries in such book, and the entries shall constitute the school lists from which the average daily attendance shall be determined; and such oath or affirmation may be taken by the district clerk, but without charge. Until the teacher shall have so made and verified such entries, the trustees shall not draw on the supervisor, collector or treasurer for any portion of his or her wages (vii. 53).

This obligation upon teachers is practically universal<sup>1</sup>. Ala. (29), Ark. (77), Cal. (26), Me. (23), Mich. (90), Mont. (44), N. J. (25), N. M. (11), N. D. (61), S. D. (33), Tenn. (15), Va. (93), Wash. (27), Wy. (35), etc.

La. (36) imposes a fine of \$2 for failure to furnish report. Texas (10) and N. M. (11) impose a fine of not less than \$25 or more than \$500.

If the register be lost through carelessness the teacher is entitled to no pay for his services, and from this duty the trustees have no right to excuse him<sup>2</sup>. He may draw pay if he can make oath that it was correctly kept, but lost or stolen through no fault of his; and trustees may permit the teacher to fill up the blanks afterward, if the district do not thereby lose its public money<sup>3</sup> (D. 1713, 2523).

In Vt. the fact that a teacher who had been dismissed carried off the register, but returned it to the district clerk before bringing su't for wages, did not defeat recovery of wages<sup>4</sup>.

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<sup>1</sup> 61, 90, 93, 130, 162, 177, 182, 204, 256, 260, 414, 426.

<sup>2</sup> 177, 256, 260, 414, 418.      <sup>3</sup> 418.      <sup>4</sup> 418.

## CHAPTER IV

### BREAKING THE CONTRACT \*

*By the teacher.*—A failure of the teacher to keep a contract to teach, without good reason therefore, is sufficient cause for annulling his license. See page 103.

*By the trustees.*—A teacher once employed cannot be dismissed during the period of the contract except for cause<sup>1</sup> (D. 3864, 3865, 4195). See pages 35, 114.

A teacher doubtless, like a lawyer, surgeon, or physician, when he undertakes an employment implicitly agrees that he will bestow upon the service a reasonable degree of learning, skill, and care. When he accepts an employment as teacher in any given school, he agrees by implication that he has the learning to enable him to teach the branches to be taught therein, as well as that he has the capacity in a reasonable degree of imparting that learning to others. He agrees, also, that he will exercise a reasonable degree of care and diligence in the advancement of his pupils in their studies, in preserving harmony, order, and discipline in the school, and that he will conform himself as near as may be to such reasonable rules and regulations as may be established by competent authority for the government of the school. He also agrees, as we think, by a necessary implication, that while he continues in such employment his moral conduct shall be in all respects exemplary and beyond just reproach<sup>2</sup>.

In New York the cause must, if appeal is taken, seem sufficient to the State superintendent (vii. 47.9). The burden is upon the trustees to show cause by preponderance of proof (D. 4244).

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<sup>1</sup> 142, 230, 292, 381, 430.

<sup>2</sup> 51, 76, 416.

Sometimes, however, it is advisable not to pursue the same strictness required in court as to evidence <sup>1</sup>.

If trustees will employ teachers without sufficient caution, without previous acquaintance or inquiry, they must not rely upon the Department to relieve them from their unwise contracts, and particularly so when the most that can be said against a teacher so employed is, that she lacks tact and management, or talks offensively under opposition and criticism (D. 3510).

Some States confer upon trustees the power to dismiss teachers on their own judgment, without assigning a specific cause. Ala. (25), Id. (14), Me. (20), Md. (23), Va. (43). Compare Neb. (60), Nev. (13), R. I. (225), Va. (88). Mass. (44) says<sup>2</sup>:

It will often happen that a committee may be in possession of sufficient reasons to justify the dismissal of a teacher, and yet a wise public policy would avoid a disclosure of them. Experience has proved that this power is not liable to abuse. Committees are reluctant to take upon themselves the responsibility of dismissing a teacher, except in extreme cases.

The following is the English view :

For there may be causes which render a man altogether unfit to continue to be a schoolmaster, which cannot be made the subject of a charge before a jury, or otherwise of actual proof. A general want of reputation in the neighborhood, the very suspicion that he has been guilty of the offences stated against him, the common belief of the truth of such charges amongst the neighbors, might ruin the well-being of the school, if the master were continued in it, although the charge itself might be untrue, and at all events the proof of the facts themselves insufficient before a jury <sup>3</sup>.

In an action for services, evidence "that the said plaintiff was incompetent to manage the said school ; that she was unreasonable in her requirements of the scholars in said school ; and was uneven in her treatment of them, and partial and abusive in her treatment of certain ones in said school, and that she failed in all respects as a teacher of said school," was admissible<sup>4</sup>.

The dismissal of a teacher is business, and must be done at a regular or special meeting of the trustees.

*Opportunity to be heard.*—The teacher must not be discharged without notice, and a chance to defend himself <sup>5</sup> (D. 3510), Id. (14).

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1 305.

2 196.

3 455.

4 416.

5 142, 168, 384, 447.

Where a teacher is dismissed by a board during the term of employment without an opportunity to be heard and without sufficient cause, such teacher is entitled to receive pay for the balance of his or her term of employment, and such dismissal is unlawful, invalid, and void (D. 4294).

*Sufficient cause.*—The principal causes that warrant the annulment of the license (see pages 98–104) still more warrant the dismissal of a teacher, which is a lighter punishment.

Of course the punishment of a teacher for not attending institute, not keeping engagement, or falsifying register (see pages 103, 104) is not within the power of the trustees.

**a. Immorality** is sufficient cause<sup>1</sup> (viii. 15.11; D. 4294). See page 99. N. C. (23), Pa. (131, 138), S. D. (26), Tenn. (9), Utah (9), etc.

By universal consent, and certainly by the spirit of our school law, it is expected of teachers that they refrain from improper language, keep the Sabbath day with respect, and in every other way avoid practices or company that are demoralizing in their tendencies.—Ia. (37).

**b. Incapacity to teach** is specified as a cause for dismissal (viii. 15.11). See pages 36, 101. But it must be marked to justify this action<sup>2</sup>. N. C. (23).

After a teacher has obtained a certificate, been employed, and entered upon his duty, he should not be discharged without the clearest proof of his incompetency or palpable neglect of duty, in default of which on the part of the trustees inferior courts should find for the teacher. The testimony of the pupils as to the teacher's fidelity is to be received with much caution, and occasional or trifling errors in recitation, or inaccuracies in scholarship, or casual laxity in discipline, or tardiness of action, or failure to secure the rapid advancement of particular scholars—these

<sup>1</sup> 5, 33, 130, 131, 240, 248, 438, 439.

<sup>2</sup> 33, 59, 66, 230, 416.

things, whether alleged or real, are inconsequential when weighed against the favorable presumption warranted by the possession of a legal certificate, and the evidence of general success and fidelity<sup>1</sup>.

One decision of the State department upon an appeal against dismissal reads thus : "The incompetency of the appellant I do not think so conclusively proved as to sustain the presumption of a non-fulfilment of contract by him, though from the testimony on both sides I am disposed to rate him considerably below the grade of a first-class teacher. Still, the trustees can hardly expect to get all the manly and scholarly virtues for \$15 a month ;" and the appeal was sustained.

Again : "After having taught 9 weeks and 2 days, she was discharged on the ground that she failed in government. This the teacher denies, testifying that she had no trouble except with one young man, 16 years old, who was vicious, profane and exceedingly troublesome. She called upon the trustee to aid her in governing him, but without avail. She had taught several terms before, successfully. Held, *that the trustee should have sustained the teacher*, removing the pupil if necessary ; and that the discharge was illegal" (D. 3678). See pages 197, 199.

**c. Neglect of duty**<sup>2</sup> is the third cause specified in the New York law (viii. 15.11). See page 102. N. C. (23), Pa. (131, 138), N. D. (42), S. D. (26), Tenn. (9), Utah (9), etc.

**d. Cruelty** is ample cause.

For inflicting unjustifiably severe punishment upon pupils for comparatively slight offences, the teacher should be discharged as either incompetent to fulfil his duties properly as a teacher, or as wilfully regardless of them (D. 1793, 3863). Pa. (131).

As to where the line is drawn between cruelty and a justifiable maintenance of authority, consult the chapter on corporal punishment, pages 180-194.

**e. Insubordination** is sufficient cause. See page 138.

The board of education of the village of Millport appealed to the Department to remove Principal Harris Wickham for insub-

ordination, specifying that he began school contrary to their directions, refused to permit them to clean the building, undertook to have the members arrested when they tried to clean or repair the building, refused to meet the board for the transaction of business, exchanged text-books against their wishes, received non-resident pupils without their knowledge, and was inefficient in discipline. Mr. Wickham made no reply to these charges, but claimed that the Department could not remove him except by revoking his license to teach. In this he is sustained. The charge is not of immoral conduct or of mental incapacity. *If the charges are true the board might remove him for insubordination*, in which case he would have the right to appeal, that the truth or falsity of the charges might be established (D. 3565).

If this charge involves a question of veracity, the burden of proof is on the trustees. Thus where Sup't Sheldon J. Pardee of Long Island City swore to one thing and Principal Peter E. Demarest to the opposite, the State superintendent preferred to take Mr. Demarest's word, as appears in the following decision :

The respondent's charge of insubordination seems to be based upon the allegation contained in the affidavit of Mr. Pardee that the appellant did not recognize the authority of Pardee as superintendent of schools, or to read the resolution passed by respondents on January 24, 1893, hereinbefore mentioned. Pardee avers a copy was given to the appellant, and the appellant avers it was not delivered to him. The affirmative is upon the respondents to establish the allegation of Pardee, and in this the respondents have failed (D. 4195).

**f. Bribery or agency is in many States a specified cause.**

Teachers are forbidden to have any pecuniary interest, directly or indirectly, in supplying books, maps, school furniture, and apparatus to the schools of the State, or to act as agent for any author, publisher, bookseller, or dealer in any such school furniture or apparatus, or directly or indirectly receive any gift, emolument, reward or promise of reward, for his influence in recommending or procuring the use of any book, map or school apparatus, or furniture of any kind in any public school of this State. Any teacher who shall violate this provision, besides being removed from his post, shall be subject to a penalty of not



less than \$200 nor more than \$500, and shall be guilty of misdemeanor. Tenn. (13).

So Ariz. (15); Ark. (21); Cal. (40); N. J. (44); Pa. (146); R. I. (82); Utah (16); Va. (73); Wy. (42), etc.

New York places a similar restriction upon school commissioners (v. 12), and upon school officers (Penal Code, §473).

R. I. (12) also prohibits any person from offering fee, commission, or compensation.

Va. (73) makes a special concession to authors :

Exceptions to the requirements of this section may be made by the board of education, in the case of a school officer being the author of school books or maps, or the inventor of school furniture or apparatus, in which case the board of education may, at its discretion, make specific arrangements whereby such school officer may, if his book or invention be adopted by proper authority, enjoy the profit of the proceedings thereof without offence : provided, that no unfair advantage be allowed over other competitors in securing the adoption of the book or invention.

**g. Closing school without consent of the trustees, even for a single school day is sufficient cause<sup>1</sup> (D. 3782). Va. (93).**

Of course a teacher must do his teaching in the schoolhouse<sup>2</sup>.

(1) CONSENT OF THE TRUSTEES MUST BE OFFICAL, at a meeting regularly called<sup>3</sup> (D. 1751).

(2) THE TRUSTEES ARE TO PROVIDE THE SUBSTITUTE. The teacher can furnish substitute only by permission of the trustees<sup>4</sup> (D 4003), W. Va. (63), the wages to be paid by deduction from the teacher's wages. Ia. (55).

The substitute must be licensed (see page 105); and some States require that the license should be of the same grade as that of the absent teacher. W.Va. (36, 63).

(3) EVEN IF THE SCHOOLHOUSE IS LOCKED AGAINST HIM, if the teacher goes away without applying to the trustees for admission, he abandons his contract. He must make every reasonable effort to continue the school.

<sup>1</sup> 50, 76, 117, 123, 124, 143, 248, 263.    <sup>2</sup> 152.    <sup>3</sup> 375.    <sup>4</sup> 50, 51.

A teacher voluntarily giving up the school, even at the request of the trustees, can recover only for the time actually taught <sup>1</sup>.

On the other hand, a teacher dismissed for cause who took forcible possession of the schoolhouse and continued to teach could not recover wages <sup>2</sup>.

(4) IF HE ABANDONS HIS CONTRACT without justifiable reason, he cannot recover for time already taught<sup>3</sup>.

But if he is obliged to give up the school because not sustained by the trustees in the enforcement of reasonable rules, he is entitled to pay for the time taught<sup>4</sup>, and if the failure is plainly no fault of his, for the full term. See page 136.

A teacher employed for nine months, but not teaching the last month through neglect of the trustees is entitled to pay for that month also <sup>5</sup>.

A teacher who was hired for three months had taught six weeks. The district became dissatisfied, only one or two scholars attended, the stove-legs and pipe were carried from the school-room, and the teacher had to close school. By the request of the committee, he held himself ready to complete the term, but the committee did not put the building in order. He recovered wages for the full term <sup>6</sup>.

(5) TEMPORARY ILLNESS, however, is not good ground for dismissal.

The English view is even that salary may be drawn for the time of absence.

Of course a headmaster may dismiss his assistant with due notice on the assistant falling ill; but the illness is not sufficient cause for summary dismissal, unless it is likely to disable him permanently, or for a long time, from doing his duties. If the assistant is obliged, because of illness, to be absent from his duties at any time, and then returns again to them on recovery, *he has a right to his salary for the time he was laid by*, as the contract between him and his employer has not been rescinded, and has, therefore, been in force all the time <sup>7</sup>.

In American public schools, the teacher absent through sickness or other cause is expected to pay the wages of the substitute, as stated above. The pension law (see page 131) also makes provision for substitutes.

**h. Mere dissatisfaction** of pupils and parents is not, in most States, cause for dismissal<sup>8</sup>. See page 102.

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<sup>1</sup> 241.

<sup>2</sup> 28.

<sup>3</sup> 400, 405.

<sup>4</sup> 230, 419, 427.

<sup>5</sup> 250, 251.

<sup>6</sup> 40.

<sup>7</sup> 454.

<sup>8</sup> 397, 402.

The fact that parents do not send their children to school does not of itself affect the teacher's right to compensation<sup>1</sup>. Ia. (54), W. Va. (75).

In R. I. (63) the trustees may suspend the school whenever the average attendance falls below 5; in La. (55) and Md. (22), whenever the average attendance in any school for any two consecutive terms is less than 10 pupils; and in Ky. (49) when the trustees ascertain that the average daily attendance for 20 consecutive days has been less than 25 per cent of the total number of children of school age in the district, they shall, with the consent of the county superintendent, dismiss the teacher and employ another to complete the term, unless they are satisfied that the decreased attendance was due to such natural causes as high water, extremely inclement weather, epidemics, or unusual sickness in the district.

**i. On payment of damages a teacher may be discharged, even without adequate cause.**

Michael E. Devlin had been principal of No. 1 Westchester since 1881, his recent salary being \$2,100. On August 7, 1887, the board of education by a vote of 5 to 4 voted to employ Irving Washburn, at a salary of \$1,800. This created much feeling in the district, and the annual meeting on August 28 was largely attended. The new members of the board elected were those known to be in favor of Mr. Devlin, and the meeting instructed the board to re-employ Mr. Devlin, and raised \$2,100 additional to the original estimates for his salary, assuming that Mr. Washburn must be paid the salary the old board had agreed to give him. Held, that while the meeting had no right to dictate to the board whom they should hire, it had a right to raise the \$2,100, and the board had the right to engage Mr. Devlin, and to pay Mr. Washburn \$1,800 as damages in full (D. 3732).

**k. Pensions** may be granted in New York to teachers who have been 25 years in continuous service in the schools of any town, in which case the teacher is retired from teaching.

Under this act (Chap. 767, laws of 1895) pensions may be granted only by raising a town pension fund at an annual town-

meeting, upon petition of 25 or more taxpayers properly advertised. Where the town votes this, teachers who are eligible may make application to the town clerk, and thereafter the supervisors must include in the tax levy the amount necessary to pay to such teachers monthly at one-half the rate of the wages received by the teacher during his last year of teaching. Such teachers, if not physically disabled, may be required by the commissioner to take the place of a teacher temporarily absent or disqualified, without additional compensation.

New York and some other cities have special pension-laws of their own.

*Proper method of procedure.*—The possession of a license is *prima facie* evidence of qualification, and if the trustees can secure its annulment that relieves them of the teacher without responsibility of their own<sup>1</sup>.

In New York it has been held that since a State certificate while unrevoked, *conclusive evidence* that the person to whom it was granted was qualified by moral character, learning, and ability to teach any common school in the State, the superintendent felt himself by this statute debarred from considering allegations against the moral character, learning, and ability of the teacher, upon an attempt to discharge her from the employment of the board, and held that the proceeding should have been one to annul her State certificate (D. 3510).

In Mo. (15) trustees cannot discharge a teacher for incompetence or immorality until his certificate is revoked<sup>2</sup>.

But the present policy of the New York Department of Public Instruction is manifestly to sustain the certificate (see page 102); and since the power of annulment except for immorality is taken away from commissioners, trustees if they wish to get

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<sup>1</sup> 6, 33, 230, 289.

<sup>2</sup> 223, 235.

rid of a teacher must usually take the responsibility of discharging him; and this is a serious responsibility.

*Liability for criticism.*—When trustees have discharged a teacher, they are sometimes asked why, especially by trustees of other schools for which the teacher has made application. In such cases, the reply is privileged, and if made in good faith an action for slander or libel will not stand.

A letter from an inhabitant of the district to the trustees complaining of the teacher is privileged, if written with an honest purpose and for the public good<sup>1</sup>. *Townshend on Slander and Libel*, pp. 385, 399; but see 272.

The English law holds good in this country, and is thus stated :

A head-master is not bound to give any character or testimonial to his assistant; but, when he does give one, all statements made therein are privileged, and no action for libel can be brought on them, provided they be made *bona-fide*. This privilege exists because of the duty thrown upon every person by the convenience of society to state fairly all he knows either for or against a former servant which would be likely to influence another person, who contemplates engaging that servant, in deciding upon the fitness of the servant for the purpose for which he requires him. If, then, in accordance with this duty, a head-master states what he honestly believes to be the truth about his assistant, the law will protect him from any penalties for so doing, even if the things stated are, in fact untrue. But if he deliberately makes a statement which he knows to be false, and gives his assistant a bad character which he knows he does not deserve, the head-master is not acting in accordance with his duty, and lays himself open to an action for libel at the suit of the injured assistant. Malice being proved destroys the privilege which otherwise would exist, and any deliberate and intentional false statement, or any statement made recklessly, without knowing whether it be true or false, is evidence of malice. If a head-master give his assistant a good character, by means of which he gains another situation, and the head-master subsequently finds out that he was

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<sup>1</sup> 196.

mistaken in giving such a character, and informs his former assistant's new employer of the mistake, this information will be privileged; and indeed it is the duty of the head-master to correct his mistake<sup>1</sup>.

When, however, a head-master hears that a former assistant is about to be appointed to a new post, it is not his duty to *volunteer* information as to such assistant's character, and it is much safer for him to wait until asked before making any statement.

Eagerness to prevent a former servant obtaining another place has the appearance of malice, and if it were found that I wrote systematically to every one to whom the plaintiff applied for work, the jury would probably give damages against me. On the other hand, if a person into whose service he was about to enter was an intimate friend or a relation of mine, and there was no other evidence of malice except that I volunteered the information, the occasion would still be privileged.—*Odgers on Slander and Libel*, p. 202.

In case of dismissal for gross immorality, however, it is unquestionably the duty as well as the right of the trustees to make known the fact to any school likely to engage the discharged teacher.

*The teacher's defence.*—A teacher who feels himself unjustly treated in being discharged has the option of two methods of redress: appeal to the courts, or appeal to the State superintendent.

This applies also to withholding and to annulling a certificate, pages 98, 104, and to any other dissension that may arise between the teacher and the trustees or other school-officers.

**a. Appeal to the courts.**—He may apply for a writ of mandamus, to compel re-instatement<sup>2</sup>; or may hold himself ready to perform his part of the contract, and when the time has expired may sue for his wages<sup>3</sup>.

In Ind. there is no appeal from the action of the trustees in dismissing a teacher<sup>4</sup>. See also page 125.

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<sup>1</sup> 453.    <sup>2</sup> 19.    <sup>3</sup> 59, 66, 117, 122, 273 a, 301, 307, 312, 316, 318, 368.    <sup>4</sup> 76.

**b. Appeal to the State superintendent.**—He may appeal to the State superintendent either to reinstate him, or to direct the trustees to pay him his wages<sup>1</sup>. Cal. (27), Mont. (45).

This appeal may be made, even after the teacher has been non-suited in the courts<sup>2</sup>.

The appeal may be made in cities, as well as in rural districts (D. 3864, 4195).

Where there is a State board of education there is usually an appeal to it from a decision of the State superintendent. Va. (31). In some States appeals must be made first to the county superintendent <sup>3</sup>; in Ga. (21) to the county board of education.

It is a rule of the Department that all acts and proceedings will be regarded as regular unless appealed from. The bringing of appeals for light and trifling causes will be discouraged. If vague or uncertain in statement or illegible and unintelligible, appeals will be disregarded (D. 3754).

The superintendent will not assume jurisdiction of cases in the nature of a prosecution for the recovery of a fine or penalty; nor will he undertake to settle disputes as to contracts and other matters involving money, where the issue depends upon the truth of diverse statements and should be settled by the courts<sup>4</sup> (D. 1978); or where the amount involved is indeterminate; or to enforce the payment of money where a decision has been rendered, which should be left to the regular legal authorities. See page 113.

But a teacher in the State of New York, who promptly and clearly presents to the Department evidence of unjust treatment by any school officers in the discharge of his duties under the school law, may be assured that the case will be thoroughly and impartially investigated, and a decision rendered with no expense to him, from which no appeal can be taken to any court of law.

The rules of practice of the Department will be found in the Consolidated School Law, pages 147, 148 of the edition of 1894.

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<sup>1</sup> 271, 302, 318.

<sup>2</sup> 308.

<sup>3</sup> 264.

<sup>4</sup> 321.

*Recovery of wages.*—After being dismissed the teacher can draw no further pay. R. I. (250). If a teacher succeeds in his appeal, he may receive wages for the whole time for which he was employed<sup>1</sup> (D. 4294).

But only for the difference between the stipulated wages, and what he earned or might have earned at a similar employment in his own vicinity during the time covered by the contract<sup>2</sup>. Minn. (41). *Greenleaf on Evidence*, ii. § 161 a: *Chitty on Contracts*, 11th Am. ed., ii. 855, note.

The burden of proving that the teacher could have secured other employment is upon the trustees<sup>3</sup>.

As in other cases, the damages which can be recovered should be such as follow in the natural course from the wrongful act, and ought to be measured, so as to put the plaintiff pecuniarily in the same position as he would have been if he had been dismissed rightly. He is not necessarily entitled, as was once thought, to his full salary for the unexpired time of his service according to the contract; he must not sit still and do nothing, but should use all reasonable exertions to get a new situation, and should accept of such suitable employment as may offer itself. If he get a new situation without much delay, the damages will be reduced according to its value; but whatever the value of the new situation may be, the plaintiff is always entitled to *some* damages for the wrong done him by the breach of contract. If a master be engaged for a certain definite time, and he is dismissed wrongfully before the end of that time, he can sue at once, and need not wait until the time has expired. \* \* \* If, therefore, an action is brought for wrongful dismissal, and the contract was for service for a fixed time, which has not expired, the jury should estimate the probability of the plaintiff obtaining other employment, and deduct the value of such employment from the salary the plaintiff would have received, if he had continued in the service to the end of the agreed time<sup>4</sup>.

A CELEBRATED CASE in New York illustrates this principle. On June 28, 1880, Neil Gilmour, then superintendent of public instruction, demanded the peremptory resignation of James A. Hoose, principal of the Cortland State normal school, and on July 12 "withdrew his approval" of his appointment. On July 24 he appointed James M. Cassety principal of the school. The local board refused to recognize the appointment, and on Sept. 1

<sup>1</sup> 47, 59, 439. But see 358 a.

<sup>2</sup> 15, 70.

<sup>3</sup> 69.

<sup>4</sup> 459.



opened the school under Dr. Hoose, six of the teachers appearing on the platform, while the other six obeyed the State superintendent.

On Oct. 26 Mr. Gilmour applied for a mandamus, which was granted ; and on Feb. 15, 1881, the school was opened under Mr. Cassety. On Feb. 22, the local board appealed to the general term, which on Sept. 20, 1881, affirmed the decision of the court below. The local board then carried the case to the court of appeals, which on April 18, 1882, decided in favor of the local board. Whereupon Dr. Hoose once more took charge of the school, his six teachers returning with him.—*S. B.* viii. 119.

The Governor vetoed the item in the supply bill to pay the salaries of Dr. Hoose and his teachers for the time they were kept out of the school, on the ground that the State should not pay twice for the same work ; but on Jan. 22, 1884, the court of claims awarded Dr. Hoose for himself, and for his assistants who had assigned their claims to him, the sum of \$12,551.25 and interest from April 26, 1882, including \$3,187.50 for his own salary. From this last item \$1,403.43 was deducted, being the amount he had received from the city of Binghamton where he had served as superintendent a part of the interim. Dr. Stowell, teacher of sciences, who had not engaged in teaching elsewhere, received the full salary for the time, \$2,167.50. On May 24, 1884, Gov. Cleveland affixed his signature to a bill paying this award.

*Damages for injustice.*—If the trustees have acted wantonly and maliciously, the teacher may proceed against them personally<sup>1</sup> ; but he must show clearly that malice and injury were the impelling motives<sup>2</sup>.

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1 352 a.

2 66, 76, 104, 305, 311, 339, 352, 354.

## CHAPTER V

### RULES AND REGULATIONS

\* *The original authority* to make rules and regulations lies in the trustees<sup>1</sup> (vii. 47.11 ; viii. 15.2). See pages 37-45. Ark. (65), Col. (36), Ia. (35), Mont. (44), Neb. (40), Ohio (64), R. I. (61), Wis. (42), etc.

Ky. (49) requires the trustees to meet at the schoolhouse on the day of opening school, and at least one month thereafter during the opening session. Mont. (39) requires every one of the trustees to visit the school at least once in each term, and inquire into its management, condition, and wants.

For a teacher to refuse to obey official rules would be insubordination, and warrant his discharge. Mont. (44). See page 138.

In Tenn., where a teacher suspended a pupil for using tobacco, in violation of a rule made by the teacher which the trustees objected to, the trustees were upheld in discharging the teacher<sup>2</sup>.

*The rules must be officially adopted*, at a regular meeting, and recorded in the minutes (D. 4294, 3524), Wis. (42).

There have been decisions to the contrary<sup>3</sup>, but the preponderance of authority is decidedly toward requiring official action as stated. The trustees have authority only as a board of trustees—not individually.

Of course a sole trustee may act at any time.

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<sup>1</sup> 108, 154, 170, 179, 181, 184, 185, 199, 233, 286, 338, 340, 420, 421, 432, 436.

<sup>2</sup> 381.      <sup>3</sup> 80, 170, 172, 258, 436.

*The school commissioner*, or county superintendent, is to recommend to trustees and teachers the proper rules and regulations (v. 13.2). See page 15. Id. (8), Mont. (30), N. D. (27), S. D. (26), etc.

*Outside and beyond the rules officially adopted by the trustees, the power lies with the teacher.*—The trustees formulate the general principles for the management of the school; the practical application of these principles is confided to the teacher<sup>1</sup>. Mo. (14).

The board has power to make all needful rules and regulations for the organization, gradation and government of the school, and to suspend any pupil for non-compliance with reasonable rules established by it, or by the teacher with its consent<sup>2</sup>. But in matters of this kind the board will, in the main, be guided by the advice of the teacher. While the teacher is subordinate to, and must execute the orders of the board, he is responsible for the conduct, discipline and progress of his pupils, and should, generally, be allowed to decide as to the means and methods of discharging this responsibility. Wis. (42).

*The teacher's place* and authority cannot be taken, except by his permission, by the trustee or even by the school commissioner or the county superintendent<sup>3</sup>. Horace Mann, considered the school committee in higher authority, saying :

During the period of visitation the committee have the entire control of the school. For the time being it is their school, and the teacher is their servant. They may decide what classes shall be called upon to perform exercises, and in what studies. They may direct the teacher to conduct the examination, or may conduct it wholly themselves, or they may combine both methods.

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<sup>1</sup> 24, 86, 170, 172, 236, 255.

<sup>2</sup> 432, 436.

<sup>3</sup> 21, 401.

In fine they may dismiss the teacher for the hour, and pursue the examination in his absence. \* \* \* Should any scholar misbehave himself, or prove refractory or contumacious to the committee, while they are engaged in examining the school, it is presumed they have an authority to suspend, to expel, or to punish on the spot, in the same way that the teacher may do in case of like misconduct committed against himself.—*38th Mass. Report, p. 150.*

But that is not the law of to-day. This has been admirably stated in a recent decision of the New York Department of Public Instruction :

Boards of education of union free school districts are bodies corporate, and must act as a board in making rules and regulations relative to the discipline and government of the schools under their charge ; in prescribing the studies to be taught ; in grading and classifying the schools and regulating the admission of pupils therein, and in the general management and superintendence of said schools. The rules and regulations of the board relative to matter upon which, under the school law, they are authorized to act should be adopted by the board of sessions of the board, and copies of the rules and regulations should be given to the teachers. *Individual members of the board have no authority to make rules, nor to give orders to teachers. Under the school law, the method of imparting instruction belongs exclusively to the teachers. The teachers assign seats to the scholars, regulate the order in which recitations of classes, pursuing the different studies taught in the school, are to be held, and conduct such recitations. A visiting committee of a board, visiting a school, has no authority to interfere with the methods of instruction pursued by the teachers, nor to give orders to the teacher, nor to interfere in the recitations or assume to conduct such recitations, nor to conduct examinations on their own account, without advising with the teachers, nor to interfere with the seating of the pupils.* Such committee should visit the school at such times as it shall deem necessary and proper, and watch carefully the methods pursued by the teacher, the government and discipline of the school, whether or not the teacher

maintains good order and discipline, etc., etc., and report the facts relative to such matters to the board. If, in the opinion of the board, the condition of the school is such that, in its judgment, it is not for the best educational interests of the school, then it should call the attention of the teachers thereto. No members of a visiting committee or the board should criticize or reprimand a teacher in the presence of the school or any pupil attending the same, as such a course will be in the highest degree detrimental to the best educational interests of the same (D. 4294).

So in Minn. (43) the authority of the trustees over the interior management of the schools is entirely advisory in its character. The responsibility for the correct government and discipline of the school, as well as the adoption of such methods of teaching as seem best calculated to promote the advancement of the scholars in their several branches of study, rests solely with the teacher. Of course there ought to be and always will be a mutual interchange of views, and a cordial co-operation between teachers and trustees in all these matters, whenever a regard is had to the important interests intrusted to their charge.

*An illustration* will make this point clear. Congress establishes by law the rates of postage, and the classification of mail matter: but a New York senator would not think of entering the Albany postoffice and directing the postmaster hereafter to charge 3 cents for letter-postage, or to charge letter-postage on periodicals; he would not even assume to dictate to the postmaster whether a new periodical should be received at newspaper rates, or to give directions as to the internal management of the postoffice. His power is only as a member of congress and in the halls of congress; as an individual he has no more authority in the postoffice than any other individual.

On the other hand, the postmaster-general has entire power to enter any postoffice either personally or by messenger, and make any investigation desired into the methods employed. It is his duty to give the general directions under which post-offices shall be conducted, and any specific directions that a particular postoffice requires. He determines the classification of mail matter, and in general is entrusted with the details of carrying out the laws established by congress.

*The superintendent* of schools in a village or city occupies the same relation to the teachers of the village or city that the postmaster-general does toward the postmasters. He is the executive officer of the board of education, and is authorized to represent them in matters of detail as regards the management and discipline of the school, the course of study, and the methods of teaching. He may take the place of a teacher at any time, may direct what shall be taught, and how and when it shall be taught, and may usually transfer teachers from one department to another as the needs of the school require. In some cities, like Cleveland, he has entire authority to engage and discharge teachers, and is the head of the body of which they are the members, with full power of direction.

*The principal* of the school occupies toward his subordinate teachers much of the relation of super-

intendent; and in villages where there is no superintendent he practically fills that place. Hence in many schools the rules and regulations are made by the principal, and are often endorsed only tacitly by the trustees.

Regarding the powers of a teacher to act in absence of authority regularly conferred by a school board, Judge Lyons, of the Supreme Court of Wisconsin, said :

While the teacher or principal in charge of a public school is subordinate to the school board or board of education of his district or city, and must enforce rules and regulations adopted by the board for the government of the school, and execute all its lawful orders in that behalf, *he does not derive all his power and authority in the school and over his pupils from the affirmative action of the board.* He stands, for the time being *in loco parentis* to his pupils, and, because of that relation, he must necessarily exercise authority over them in many things concerning which the board may have remained silent. In the school, as in the family, there exists on the part of the pupils the obligations of obedience to lawful commands, subordination, civil deportment, respects for the rights of other pupils, and fidelity to duty. These obligations are inherent in any school system, and constitute, so to speak, the common law of the school. Every pupil is presumed to know this law, and is subject to it, whether it has or has not been re-enacted by the district board in the form of written rules and regulations. Indeed, it would seem impossible to frame rules which would cover all cases of vicious tendency which the teacher is liable to encounter daily and hourly <sup>1</sup>.

*Yet it must never be forgotten that in regard to the hours of school, the course of study, the adoption of text-books, the general regulations, and the expulsion of pupils, the action of the teacher has no legal force until formally endorsed by the trustees<sup>2</sup>.* See page 37.

However unbounded the confidence placed in him, a wise teacher will secure the sanction of the trustees before he announces his own course as to these questions.

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<sup>1</sup> 170, 255.

<sup>2</sup> 432, 436.

*What rules may be made.*—While in general the rules for any particular school will depend upon its peculiar circumstances and must be left to the local authorities, there are some kinds of rules of such universal application that usage has become fixed into law and must be followed.

It has been decided by the courts that whether or not a rule is reasonable is a question of law for the Court to decide and not one of fact to be determined by a jury<sup>1</sup>.

Any rule for the school, not interfering with the rights of children or parents, or in conflict with humanity and the precepts of Divine law, which tends to advance the object of the law in establishing public schools, must be considered reasonable and proper<sup>2</sup>.

In Ark. (66), the trustees may enforce a rule against the use of tobacco or whiskey, or the carrying of any deadly weapon in any part of the school-building.

Special chapters are given to Absence and Tardiness (page 149); Control of the Child's Studies (page 155); The Bible and Religious Exercises (page 166); Extent of Authority (page 170); Corporal Punishment (page 180); and Suspension and Expulsion (page 195). The following are treated here :

- |                            |                                 |
|----------------------------|---------------------------------|
| <i>a.</i> Hours of school. | <i>e.</i> Personal cleanliness. |
| <i>b.</i> Janitor work.    | <i>f.</i> Manner of attire.     |
| <i>c.</i> Pecuniary fines. | <i>g.</i> Left-handed children. |
| <i>d.</i> Use of tobacco.  | <i>h.</i> Outside the school.   |

**a. The hours of school.**—The hours of school are usually 6,—3 in the morning and 3 in the afternoon, with recesses in the middle of each session of 10 minutes for the boys and 10 minutes for the girls.

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<sup>1</sup> 39, 421.

<sup>2</sup> 108.



Unless there is specification in the contract, it is understood that the hours of school are those customary in the district. Kan. (44), Md. (22).

The school law does not prescribe the hour when schools shall be opened, nor the number of hours during which they shall be kept open. Custom, it is true, fixes the period somewhere between the hours of 8 A. M., and 5 P. M., but this custom may be departed from, at the discretion of the directors, and to suit the wants of the pupils. Pa. (149).

Obvious hygienic requirements make recesses for each sex indispensable where the playgrounds are not wholly distinct. But this last is now required in New York (vii. 48 ; see page 47), and is becoming so in other States.

In some schools no recesses are given, the session being shortened proportionally. It is becoming customary to dismiss primary classes before the close of each session, and is usually advisable.

Ariz. (44) requires that the session shall begin at 9 o'clock and end at 4, with an intermission from 12 to 1, and recesses from 10:40 to 11, and from 2:40 to 3. In primary schools where the average age of the pupils is 8 years, the daily sessions shall not exceed 4 hours a day, exclusive of intermission and recesses ; where it is under 8 years, the confinement in school shall not exceed  $3\frac{1}{2}$  hours. Ore. (70) has a similar provision. Cal. (25) limits the number of school-hours to 6, and forbids that pupils under 8 shall be kept in school more than 4 hours.

Mont. (46), Ore. (41), Wash. (28), name 6 hours for pupils over 8, but permit the trustees to order fewer. Va. (91) prescribes that no school shall be taught fewer than 6 hours ; Fla. (25) not more than 6 or fewer than 5.

Mont. (46), Ore. (70), Wash. (28) give the *teacher* power to dismiss all scholars under 8 after a 4 hours' session.

**b. Janitor work.**—Pupils may not be *compelled* to do janitor work, like building fires, or sweeping the schoolhouse<sup>1</sup>. R. I. (226). Compare page 121.

In 1856, Judge Cutting of the Supreme Court of Maine decided that a boy attending school might be required by the teacher to build the fire at the schoolhouse his proportion of the time, and

sustained the teacher for flogging a boy because he refused to make a fire (*N. Y. Teacher*, vi. 432). But this decision stands alone, and is not good law.—*38th Mass. Report*, p. 151.

A child who wantonly carries dirt into the school-room, or litters paper over the floor, may be required to gather up such refuse as has been scattered. But this is as a punishment. It may be very desirable, under certain circumstances, to have such work done to save money; but no court will sustain a board in suspending a pupil for refusal to do the work thus required<sup>1</sup>

**c. Pecuniary fines.**—In New York the law confers upon trustees no power to inflict pecuniary fines (D. 2091), even for injury to school property<sup>2</sup>.

Sup't Ruggles of New York wrote, Dec. 31, 1885, that pupils might be disciplined for refusing to make good damages to school property.—*S. B.* xiii. 62.

Ariz. (49) imposes a fine of 50 cts. and the cost of the book upon any one losing or destroying a library book, and a fine of not less than 10 cts. for soiling it. Maine (30) imposes a fine of \$10 upon any minor who defaces the schoolhouse or out-buildings by obscene writing or marks, and his parent may be compelled to pay double the damage. Mont. (38, 47), N. J. (27), Utah (13), and Wash. (30) make the parents liable for damage.

Fla. (32) imposes imprisonment not exceeding 15 days, and fine not exceeding \$100 upon any one who defaces a school-building or appurtenances by obscene writing, but *exempts* pupils of the school from this penalty.

Ariz. (46), Cal. (25), Mont. (38, 47), N. J. (27), Ore. (74), Utah (13), and Wash. (30) make pupils who injure or deface school property subject to suspension or expulsion.

In Ia. a pupil broke a window costing about \$3 while playing ball. The parents refused payment, and the superintendent expelled the pupil with the ratification of the trustees, but the court held that they had no right to promulgate or enforce such

<sup>1</sup> 55.

<sup>2</sup> 97, 120, 214 a. Compare 60.

rule. Judges Rothrock and Sweevers dissented and quoted from the code to sustain their dissent, but the boy was reinstated<sup>1</sup>.

**d. The use of tobacco.**—Rules may doubtless be made forbidding the use of tobacco in the school-house or on the school-grounds.—*S. B.* xii. 62.

But the teacher may not enforce such a rule against the will of the trustees. See page 138.

**e. Personal cleanliness.**—Arizona (46) provides that pupils who go to school without proper attention to personal cleanliness and neat apparel shall be sent home to make proper preparation, or shall be required to prepare themselves at the schoolhouse before entering the school-room.

It adds that every school-room shall be properly provided with a wash-basin, soap, and towels. If so there should be an abundance of towels. There has been wide complaint where children have been forced to use the same towel with many others, with liability to contract contagious disease.

Ariz. (24) also gives power to exclude children for filthy or vicious habits.

**f. Manner of attire.**—The teacher has no right to impose his notions of attire upon pupils. Their clothes must be whole and neat, but they need not follow any prescribed fashion.

Sup't Weaver of New York decided April 6, 1874, that a child could not be expelled for wearing the hair in a way forbidden by the teacher but approved by the mother.

**g. Left-handed children** may be urged to use the right hand, but should seldom be compelled to do so.

As to the right of the teacher to require left-handed children to write with their right hand, the Department will not lay down any general rule upon the subject. If a left-handed child can be taught to use the right hand in writing, it should be done ; but when a child has always used his left hand, and has come to be 12 or 14 years of age, it seems very doubtful whether it is practicable to change the habit, and therefore doubtful whether the teacher should insist upon it (D. 4048).

**h. Outside the school and the school-grounds, the rules of the school may not extend. See page 172.**

It has been held, however, that pupils may be required to attend and take part in exercises outside the school-building ; for instance, in graduating exercises at the city hall. See page 152.

## CHAPTER VI

### ABSENCE AND TARDINESS

*Trustees have authority* to make and to enforce rules as to regularity of attendance<sup>1</sup>. See pages 38-43. Ks. (41).

The parent has no right to interfere with the order of the school or the progress of other pupils by sending his own child at times and in condition or under restrictions that will prove an annoyance and hindrance to others<sup>2</sup>.

These rules may require punishment for

- a. Tardiness.
- b. Absence.
- c. Failure to bring excuse.

**a. Tardiness** is among the most serious obstacles to successful discipline and instruction, and may be rigorously suppressed. See page 38.

Tardiness, that is, arriving late, is a direct injury to the whole school. The confusion of hurrying to seats, gathering together books, etc., by tardy ones, at a time when all should be at study, cannot fail to greatly impede the progress of those who are regular and prompt in attendance. The rule requiring prompt and regular attendance is demanded for the good of the whole school<sup>3</sup>.

In Oregon (73) tardiness for more than an hour counts as a half-day's absence in reckoning the absence for which a pupil may be suspended.

Tardy pupils should not be kept outside. See page 38.

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<sup>1</sup> 172.      <sup>2</sup> 108.      <sup>3</sup> 108. See 91 a.

One of the pupils in one of the public schools of Shelbyville, Ind., came to the school-room door on an extremely cold morning in Jan., 1885, and found it locked. She therefore returned to her home through the cold and snow, and as a result both feet were frozen and permanently injured. Judge Niblack said that tardiness is a recognized offence against the good order and proper management of all schools, and that a tardy pupil ought not, therefore, to complain of some inconvenience or annoyance of having to remain in some other part of the building for the short period of time required to complete the morning exercises; but he said that in enforcing such a rule, due regard must be had to the health, comfort, age, and mental as well as physical condition of the pupils, and to the circumstances attending each particular emergency.

He went further, and said that teachers should relax somewhat from the strict enforcement of rules in cases of physical or mental infirmity, and that no rule, however reasonable it might be in its general application, should be enforced when that would inflict actual or unnecessary suffering. He said that the habit of locking the door during the morning exercises was not unreasonable under ordinary circumstances, but that when done on an extremely cold morning, special care and attention should be given to such pupils as might be obliged to wait in some other part of the building<sup>1</sup>.

**b. Absence** is also a direct interference with both the discipline and the progress of the school, and reasonable regulations against it may be enforced. See pages 41, 42. Ia. (38).

In Missouri, suspension for 6 half days' absence in 4 consecutive weeks has been upheld<sup>2</sup>, and in Iowa for 6 half days' absence and 2 instances of tardiness in the same time. In this last case<sup>3</sup>, Judge Beck said :

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<sup>1</sup> 80. See also 46, 49, 120, 154, 170, 179, 185, 199, 258, 340, 411, 430 a, 432, 440.

<sup>2</sup> 283. See also 65, 202, 420.      <sup>3</sup> 106.

It requires but little experience in the instruction of children and youth to convince any one that the only means which will assure progress in their studies is to secure their attendance, the application of the powers of their mind to the studies in which they are instructed. Unless the pupil's mind is open to receive instruction, vain will be the effort of the teacher to lead him forward in learning. This application of the mind in children is secured by interesting them in their studies. *But this cannot be done if they are at school one day and at home the next ; if a recitation is omitted or a lesson left unlearned at the whim or convenience of parents.* In order to interest a child he must be able to understand the subject in which he is instructed. If he has failed to prepare previous lessons he will not understand the one which the teacher explains to him. If he is required to do double duty, and prepare a previous lesson, omitted in order to make a visit or do an errand at home, with the lesson of the day, he will fail to master them and become discouraged. The inevitable consequence is that his interest flags and he is unable to apply the powers of his mind to the studies before him. The rule requiring constant and prompt attendance is for the good of the pupil and to secure the very objects the law had in view in establishing public schools. It is therefore reasonable and proper.

In another view it is required by the best interests of all the pupils of the school. Irregular attendance of the pupils not only retards their own progress, but interferes with the progress of those pupils who may be regular and prompt. The whole class may be annoyed and hindered by the imperfect recitations of one who has failed to prepare his lessons on account of absence. *The class must endure and suffer the blunders, promptings and reproofs of the irregular pupils,* all resulting from failure to prepare lessons which should have been studied when the child's time was occupied by direction of the parent in work or visiting.—*S. B.* vii. 10.

In Ore. (73) whenever the unexcused absences amount in one term to 7 days, the teacher may suspend him.

This view of the authority of the trustees has been extended to the following special cases :

(1) EXERCISES OUTSIDE OF THE SCHOOL-BUILDING.—In 1874, two girls in the Dover (N. H.) high school refused to attend examination and graduation in the city hall on the ground that it was too public. The principal suspended them. The parents applied to Judge Doe for an injunction against the suspension, and the case was referred to the full bench at Concord. The application was denied, on the ground that the subject-matter was within the jurisdiction and discretion of the school authorities.

(2) CATHOLIC HOLIDAYS.—In 1874, certain Catholic children of Brattleboro were expelled from the schools for attending mass on the holy day of Corpus Christi, though their pastor, Father Lane, had asked permission from the committee for their non-attendance at school that morning. Judge Barrett, of the Supreme Court, decided that the committee were legally justified in acting as they did ; and went on to show that school committees are supreme in their rights over parents ; that a citizen has no more right to disregard the rules made by a school committee than he has to defy the law by which the committee was empowered. He said that if parents be allowed to set their wishes against the rules of the trustees, then practically the ground of system, order, and improvement has no existence, and *it makes no difference so far as its effect on the school is concerned whether the detention involves conscience, will, whim, or the pocket*<sup>1</sup>.

(3) THE JEWISH SABBATH.—In 1875, a Jewish girl was expelled from the Sherwin school, Boston, for not attending the Saturday sessions. What followed is told thus :

The father sent a petition to the board. That petition was referred to the Sherwin committee. They heard the father's statement. He explained why he had kept the child from the school, and the position of the Israelites in respect to Saturday, their Sabbath. He asked that he might be permitted to send his child to school five days in the week, keeping her from school every Saturday. It was explained to him why the committee could not officially make such an exceptional arrangement. They respected, however, the father's scruples in regard to work on the Sabbath, and agreed that the child might be excused on Saturdays from what he regarded as " manual labor "—writing, ciphering, and the like. The father seemed satisfied with



the action of the committee; and his child has ever since been a regular attendant upon the school. See page 45.

A CAUTION.—It is therefore safe to consider this the prevailing law, at least in the eastern States. But we believe it is sometimes carried so far as to work our school system serious injury.

In this last case we have intolerance enforcing hypocrisy. The child's religion either does forbid her to work on the Sabbath, or it does not. If it does not, there is no reason why she should not "write, cipher, and the like", as well as the rest. If it does, then she should not attend school at all. Her presence, under these conditions, teaches every Christian pupil in school that one's lesson may be studied or any mental labor done on Sunday which does not involve "writing, ciphering, and the like".

**c. Excuses** from parents or guardian may be exacted in case of absence or tardiness<sup>1</sup>. See page 41.

In Indiana a teacher may chastise a pupil for refusing to give an excuse for absence without leave<sup>2</sup>.

Teachers are authorized to require excuses from the parents or guardians of pupils, either in person or by written note, in all cases of absence or tardiness or dismissal before the close of the school, and no excuse shall be deemed valid except that of sickness or necessary employment. The teacher shall be the judge of the sufficiency of excuses, subject to an appeal to the directors; *provided*, that boards of directors may, by formal adoption, change the character of the excuses which shall be deemed valid. Ore. (73).

Teachers shall require excuses from the parents or guardians of pupils, either in person or by written note, in all cases of absence or tardiness, or of dismissal before the close of school. Sickness of the pupils, or in the family, or some urgent cause rendering attendance and punctuality impossible, or extremely inconvenient, shall be regarded as the only legitimate excuse for absence or tardiness. Ariz. (45).

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<sup>1</sup> 401.

<sup>2</sup> 80.

Among the rules established by the board in a certain district was this :

All pupils will be required to bring written excuses from their parents to teachers for absence, and such excuses must be satisfactory and reasonable, otherwise they will not be granted.

The court commented upon the rule as follows :

The rule in question is not a hard or harsh one. It does not of itself indicate any sinister or malevolent purpose, or wicked force, on the part of the directors. It does not trench upon the rights or dignity of any one. We instantly and properly repel any encroachment upon our rights as citizens. We have a proper pride and ambition in maintaining these rights under any and all circumstances. But I am utterly unable to understand how this simple rule or regulation, requiring the pupil in certain cases to bring a written excuse from its parents to the teacher, is an attack upon, or an abridgment of, our inalienable rights as citizens of this free country <sup>1</sup>.

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<sup>1</sup> 65.

## CHAPTER VII

### CONTROL OF THE CHILD'S STUDIES

*Power of the trustees.*—That the trustees have power (*a*) to establish the course of study: that is to select the branches to be taught in school; and (*b*) to grade or classify the pupils, is undisputed. Whether they have (*c*) the power to compel every child in school to follow the course of study has been a subject of violent controversy.

**a. The course of study** is to be prescribed by the trustees<sup>1</sup>(vii. 47.11; viii. 15.3; D. 1682). See page 43.

In Me. Judge Appleton said that if the legislative code within constitutional limitations should prescribe a course of study however unwise, or books however immoral, he was not aware of any power on the part of the court to interfere<sup>2</sup>.

In Nev. (appendix, 1895, 3) the State board prescribes the course of study.

In N. D. (43) this power is subject to the approval of the county superintendent. In S. D. (33) teachers must follow the course of study recommended by a majority of the county superintendents of the State, and the superintendent of public instruction.

High schools may be supported by taxation<sup>3</sup>. Algebra may be included<sup>4</sup>, and rhetoric<sup>5</sup>, and composition<sup>6</sup> (D. 1687, 1874, Ore. [73]), and declamation<sup>7</sup> (Minn. [73]; Ore. [73]), and German<sup>8</sup>.

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<sup>1</sup> 89, 108, 151, 179, 185, 258, 310 a, 411, 420. 154.

<sup>3</sup> 167, 169, 187, 193, 203. <sup>4</sup> 112, 114. <sup>5</sup> 340. <sup>6</sup> 411.

<sup>7</sup> 258, 432. <sup>8</sup> 55, 234, 444.

In Me. (12, 13) ancient and modern languages and music cannot be taught in the high schools except by direction of the superintending school committees. See other restrictions on the following page.

(1) TEXT-BOOKS are also to be adopted by the trustees (xv. 9, 10), and these and these only are to be used by the pupil<sup>1</sup>.

In New York district schools, the district adopts the text-books. See pages 23, 44, 55.

In Ga. (18) the teacher may not receive pay if he permits the pupil to use other than the prescribed text-books.

(2) REQUIREMENTS.—In New York, as in nearly all States, one requirement is that physiology, so far as it pertains to the hygienic effects of stimulants and narcotics, shall be taught in every school receiving public money<sup>2</sup>.—*S. B.* xv. 86 ; xxi. 210. Drawing must be taught in union schools (xx. 22). For course of study required in high schools, see page 60.

N. D. (47) requires that all reports, records, and proceedings shall be kept in the English language, and that no public money shall be expended in supporting a school in which the English language is not taught exclusively.

Ore. (73) requires stated exercises in composition and declamation.

Ariz. (46) requires in all primary schools vocal and breathing exercises of 3 to 5 minutes each at least twice a day.

Cal. (24) requires that attention must be given to physical exercises, and to the ventilation and temperature of school-rooms.

Ore. (71) requires the teacher to attend to the temperature of the school-room, to see that the doors and windows are open at each intermission, to see that his pupils take exercise, and to encourage healthful play at recess, prohibiting all dangerous and immoral games.

Wash. (3) requires attention during the entire course to the cultivation of manners, the laws of health, physical exercise, ventilation and temperature, and *not less than 10 minutes each week to systematic teaching of kindness to animals*. Me. (23) makes this last requirement.

<sup>1</sup> 54, 154, 179, 258, 340, 411. But see 46, 49, 114, 432.

<sup>2</sup> 171.

Ariz. (27) and Cal. (27) make it the duty of all teachers to impress upon the minds of the pupils the principles of morality, truth, justice, and patriotism; to teach them to avoid idleness, profanity, and falsehood; to instruct them in the principles of a free government; and to train them up to a true comprehension of the rights, duties and dignity of American citizenship.

New York requires the authorities of every public school in this State to assemble the scholars in their charge on Arbor day, and to provide such exercises as shall tend to encourage the planting, protection and preservation of trees and shrubs, and an acquaintance with the best methods to be adopted to accomplish such results (xv. 44).

(3) PERMISSIONS.—New York expressly permits the establishment of kindergartens (xv. 22), Ariz. (51), Utah (33). It also authorizes departments for manual or industrial training (xv. 25); and the teaching of drawing and of vocal music<sup>1</sup> (xv. 22, 23).

If the teacher adds to his other qualifications a knowledge of the art of singing, it will be an additional recommendation of him with those who desire to have a good school. Singing in school serves as a recreation and an amusement, especially for the smaller scholars. It exercises and strengthens their voices and lungs, and, by its influence on the disposition and morals, enables a teacher to govern his school with comparative ease. R. I. (311).

In Ariz. (53) a principal may enrol pupils of eleven years old or more as members of the "American Guard", under such conditions as he may prescribe.

(4) RESTRICTIONS.—N. C. (21) forbids the teaching in public schools of other subjects than (1) spelling, (2) defining, (3) reading, (4) writing, (5) arithmetic, (6) English grammar, (7) elementary physiology and hygiene, (8) State and American history; but provides that the school committee may make special arrangements to allow other subjects to be taught

In Mass. (Chap. 151, 1894) vivisection is forbidden, and dissection of dead animals restricted to the class-room and the presence of the pupils engaged in the study illustrated. New York has a similar law, and the Anti-Vivisection Society of Boston

offers \$100 reward for the conviction of any public-school teacher who has at any time practised vivisection in a New York school.

**b. Grading of pupils**, that is, directing how advanced classes pupils shall enter, is in the hands of the teacher, subject to such rules and course of study as may have been established by the trustees. In schools where there is a principal or a superintendent, this responsibility is confided to him. N. D. (63). See page 142.

There is also appeal to the trustees from the action of the teacher. In N. D. (63) the appeal is to the county superintendent.

Teachers shall have the right, and it shall be their duty, within reasonable limits, to direct and control the studies of their pupils; to arrange them in proper classes, and to decide, subject to these rules, what and how many studies each shall pursue. Ore. (71).

All pupils who have fallen behind their grade by absence or irregularity of attendance, by indolence or inattention, shall be placed in the grade below at the discretion of the teacher. Ariz. (47).

**c. Compelling pupils to follow the course of study** was formerly considered an unquestioned prerogative of the teacher<sup>1</sup>.

One Iowa decision held that the father has the right to the care and custody of his minor children, and to superintend their *education* and nurture, is a proposition that does not admit of reasonable doubt<sup>2</sup>. Another held that if it is necessary for the good of the school that the pupil should study certain subjects that the parent objects to his pursuing, the teacher may not enforce the study by beating the pupil, *but may expel or suspend*.

COMPOSITION AND DECLAMATION.—Thus composition might be required of all<sup>3</sup> (D. 1687), and a girl might be expelled for

<sup>1</sup> 11, 114, 150, 184, 185, 199, 226, 258, 411.

<sup>2</sup> 100, 114.

<sup>3</sup> 411.

refusing to declaim<sup>1</sup>, even though her father had conscientious scruples against females' speaking in public (D. 1874). Minn. (73).

In November, 1871, Superintendent Clark, of Defiance, Ohio, suspended the son of J. J. Sewell, for persistent failure to have at the proper time his rhetorical exercises. The father brought suit for \$1,000 damages. On appeal to the Supreme Court, under § 54 of the act of May 1, 1873, the decision of the lower court was affirmed that there was no cause of action, and the defendant was allowed the costs of prosecution<sup>2</sup>. For similar case in Stillwater, Minn., see *S. B.* vi. 97.

In a New Hampshire case, the court held :

However judicious it may be to consult the wishes of parents, the disintegrating principle of parental authority to prevent all classification and destroy all system in any school, public or private, is unknown to the law<sup>3</sup>.

TEXT-BOOKS.—In most States pupils may be refused admission whose parents fail to provide them with the proper text-books for their classes<sup>4</sup>. Va. (97). See page 156.

All States make provision for supplying text-books to children whose parents are unable to purchase them<sup>5</sup>. Ariz. (45), Ore. (74).

Ariz. (45) and Ore. (74) forbid the child to be excluded till his parents have had one week's notice.

In 1881, Sup't Gilmour of New York decided that a pupil could not be suspended for failing to procure a certain kind of lead-pencil for drawing (*S. B.* viii. 135). In 1879, the Ohio court of common pleas in the case of Wm. A. Tucker vs. Pomeroy board of education, held that a pupil could not be suspended for refusing to purchase a drawing-tablet, as the parent had the right to select which studies his child should take, and to direct her to omit drawing.—*S. B.* vi. 97.

A WISCONSIN DECISION called attention to the fact that the modern tendency of opinion is toward holding that the school is for the child, not the child for the school.

Upon Dec. 18, 1872, Annie Morrow, a qualified teacher under a contract with the district school board, commenced teaching a district school in Grant county. James Wood, an inhabitant of

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<sup>1</sup> 258, 432,

<sup>2</sup> 340,

<sup>3</sup> 258,

<sup>4</sup> 60, 91.

<sup>5</sup> 216.

the district, sent his son, a boy about 12 years of age, to the school. The defendant wished his boy to study orthography, reading, writing, and also wished him to give particular attention to the subject of arithmetic, for very satisfactory reasons which he gave on trial. In addition to these studies the plaintiff at once required the child to also study geography, and took pains to aid him in getting a book for the purpose. The father on being informed of this, told the boy not to study geography, but to attend to his other studies, and the teacher was properly and fully advised of this wish of the parent, and also knew that the boy had been forbidden by his parent from taking that study at that time. But claiming and insisting that she had the right to direct and control the boy in respect to his studies, even as against his father's wishes, she commanded him to take his geography and get his lesson. And when the boy refused to obey her and did as he was directed by his father, she resorted to force to compel obedience. All this occurred in the first week of school. \* \* \* \* Under the circumstances, the plaintiff had no right to punish the boy for obedience to the commands of his father in respect to the study of geography. She entirely exceeded any authority which the law gave her, and the assault upon the child was unjustifiable<sup>1</sup>.

It should be noted here that the study was not one which the board had prescribed, but was insisted upon by the teacher individually.

The following contemporary expressions of opinion by leading educators are of interest.

These expressions are mostly in letters written to the author of this volume, which may be found in full in *S. B.* i. 88, 89.

Assistant Superintendent J. B. Pradt, of Wisconsin, said :

I should have held with the Circuit Court, that the teacher, not as an individual, but as the representative of the school authorities, is justified in requiring the pupil to attend to the usual studies of his class, and that if exemption is granted in any special case, it should be, not at the demand of the parent as a right, but with the consent of the board. \* \* \* But if the teacher, who very likely was young and inexperienced, had been thoughtful enough to refer the matter to the board, and the board had sustained the position that all pupils must take all the studies of the class unless exempted

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<sup>1</sup> 432. See also 46.



on request of the parent, as a favor, the question of paramount authority would have been raised in a more satisfactory way, and the judgment of the higher court would have covered a broader ground.

Superintendent J. P. Wickersham, of Pennsylvania, prefaced a report of the decision with this remark :

We are not quite sure that the decision would be considered good law in Pennsylvania, and yet it seems to rest on ground of considerable strength.

He also quoted these conclusions of Superintendent Bateman, of Illinois :

(1) Pupils can study no branch which is not *in* the course prescribed by the directors (trustees).

(2) Pupils can study no branch of such prescribed course for which they are not prepared, of which preparation the teachers and directors shall judge.

(3) Pupils shall study the particular branches of the prescribed course which the teachers, with consent of the directors, shall direct, unless honest objection is made by the parents.

(4) If objection is made in good faith, parents shall be allowed to select from the particular branches of the prescribed course for which their children are fitted those which they wish them to study ; and for the exercise of such right of choice the children shall not be liable to suspension or expulsion.

This fourth decision was pronounced sound by Superintendents Conant, of Vermont; Briggs, of Michigan; Etter, of Illinois; and Burt, of Minnesota. It was considered unsound by Superintendents Kiddle, of New York city ; Philbrick, of Boston ; Harris, of St. Louis ; Stoekwell, of Rhode Island ; Newell, of Maryland ; Smart (C. S.), of Ohio ; Smart (J. S.), of Indiana ; Henderson, of Kentucky ; and Trousdale, of Tennessee. Superintendents Apgar, of New Jersey, and Abernethy, of Iowa, stated that in these States the law explicitly conferred all right in this matter upon boards of education.

Five years later, Sup't Wickersham said .

The Supreme Court of Pennsylvania has never had this question before it, but *it is well known that the Superintendent of Public Instruction holds that under our laws school directors have the right to determine the branches taught in our public schools, and the studies each pupil shall pursue*, subject of course to reasonable limitations.—*S. B.* vi. 97.

AN ILLINOIS DECISION.—A boy had omitted, on account of ill-health, the study of English grammar. On application he

was admitted to a high school. The teachers of the school discovered that he was deficient in this study, and they required him to pass an examination for it. Not complying he was expelled. A mandamus was issued to compel the trustees to admit him again. The trustees took an appeal, and the Supreme Court affirmed the decision of the lower court, speaking as follows :

“No parent has the right to demand that the interests of the children of others shall be sacrificed for the interests of his child ; and *he cannot, consequently, insist that his child shall be placed or kept in particular classes*, when by so doing others will be retarded in the advancement they would otherwise make ; *or that his child shall be taught studies not in the prescribed course of the school*, or be allowed to use a text-book different from that decided to be used in the school ; or that he shall be allowed to adopt methods of study that interfere with others in their study \* \* \* *The policy of our laws has ever been to recognize the right of the parent to determine to what extent his child shall be educated during minority*, presuming that his natural affections and superior opportunities of knowing the physical and mental capabilities and future prospects of his child will insure the adoption of that course which will most effectually promote the child's welfare. The policy of the school law is only to withdraw from the parent the right to select the branches to be studied by the child to the extent that the exercise of that right would interfere with the system of instruction prescribed for the school, and its efficiency in imparting education to all entitled to share in its benefits. *No particular branch of study is compulsory upon those who attend school*<sup>1</sup>.”

In the same State a young lady was expelled from a public school because, under the direction of her parents, she refused to study book-keeping. She instituted an action of trespass against the directors and principal of the school, and on trial in the court below the jury found a verdict in her favor, and assessed the damages at \$136. On appeal it was affirmed by the court :

“A statute which enumerates the branches that teachers shall

be qualified to teach, gives all the children in the State the right to be instructed in those branches. But neither teachers nor directors have power to compel pupils to study other branches, nor to expel a pupil for refusing to study them<sup>1</sup>."

A NEW YORK DECISION.—Carl Hallet, a pupil in the union free school at Riverhead, refused to declaim, following in the matter his father's directions. He was expelled from school, and action was brought against the principal and board of education before the Supreme Court, April 26, 1877. In his charge to the jury, C. E. Pratt, justice, spoke as follows:

In my private opinion this requirement upon the part of these trustees and of this teacher was a perfectly reasonable one, and one which they should have been permitted to enforce. I may say further, and I think you will all agree with me, that it is utterly useless to attempt to conduct a public school unless there is secured by certain rules and regulations a thorough discipline; and more particularly is it necessary that it should be understood by those who partake of the benefits of the system, that the rules, whatever they may be, are to be impartially and invariably enforced.

In thus stating my private opinion, however, I would impress upon your minds the fact that it is immaterial what may be your or my personal feeling upon any matter of this kind. We are bound to accept the law as we find it. If the law is wrong it is not for you to rectify it. There is no safety in the administration of justice unless the laws are strictly carried out. In this case I am confident there are members upon this jury who, controlled as they are by feelings of regard for the common school system, and knowing as they do the necessity of upholding the hands of those who have the schools in charge, would hesitate for a long time before rendering any verdict against the defendants, however clear the law might be, if any excuse could be found which would satisfy their consciences in thus withholding it. Hence, in order that this question may be determined, I propose to relieve you from any responsibility in deciding the main issues in this case by saying to you that you must find a verdict for the plaintiff; and the only question which I propose to submit to you is that of damages. And while stating to you, as I have done, my private opinion and feeling upon this subject, I must at the same time say, that from reading the decisions of courts in other States upon laws the provisions of which are similar to those under which this school in question was established and is regulated, I feel constrained to say that there must, upon the facts of this case, be technically a verdict for the plaintiff.

In explanation it is perhaps proper that I should state that the rule of law is that this board of trustees may designate a course of study, within the authority delegated to them by statute, and that they may also prescribe

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<sup>1</sup> 83. See 122 a, 252, 411.

the text-books to be used in pursuing this course of study. And you see the necessity of this. It would be utterly impossible to conduct any school if every parent should undertake to dictate as to the character of the text-book to be used by the scholar. Take a school of two or three hundred scholars and as many different kind of text-books, and you would have about as many classes as students; and hence the school could not be classified at all, and the great object in view, that is, the public benefit which is to be obtained from the grouping together of children and educating them at the public expense—would be utterly lost. The law has therefore provided that these trustees shall have a wide discretion in making rules, not only for the government and discipline of the school while it is in session, but also that they may regulate the various classifications and gradations, and designate text-books that shall be used in the schools.

But here comes the question whether, in addition to the course of study prescribed by statute, the trustees shall be permitted to say that a child shall pursue a study which the parent, who is the guardian and has the control, nurture, and education of the child, desires that the child shall not pursue. *I am constrained to hold the law to be that where there is an irreconcilable difference of opinion between the teacher, or the board of trustees, and the parent, in regard to a study which is not included among those that the trustees are empowered to prescribe, the will of the parent must control.* I think that the law has not taken away the natural right of the parent to control the education of the child in that regard; and the parent is presumed to know the capacity, the temperament, and the qualifications of the child, and his ability to take any particular study or not. When the teacher or the trustees undertake to say that a child shall pursue a particular study which is not included in the statutory list of studies I think they exceed their authority. And when that is made the basis of an attempt to deprive the child of its right to attend school, and enjoy the benefits which arise from the laying of a common burden upon the community, I hold that they are liable, technically liable, for the act. Of course the parent cannot dictate that the child shall take a study which is not included in the regular, prescribed list. This duty, this obligation, is reciprocal. *The parent cannot say that the child shall study any branch not prescribed, nor can the school authorities insist that the child shall pursue a study not in the prescribed list, against the will of the parent.*—See also *S. B.* vi. 97.

*Modern tendency of opinion.*—It will be observed that this New York decision applies only to studies *not prescribed in the statute.* But as it plainly follows the rulings of the western courts, we close with a quotation from the Wisconsin decision already referred to :

In our opinion, there is a great and fatal error in this part of the charge, in asserting or assuming the law to be that upon an irreconcilable difference of views between the parents and teachers as to what studies the child shall pursue, the authority of the teacher is paramount and controlling. *We do not understand that there is any recognized principal of law, nor do we think there is any recognized rule of moral or social usage, which gives the teacher an absolute right to prescribe and dictate what studies the child shall pursue, regardless of the views or wishes of the parents.* From what source does the teacher derive this authority? Ordinarily, it will be conceded, the law gives the parent the exclusive right to govern and control the conduct of his minor children; it is one of the earliest and most sacred duties taught the child to know and obey its parents. The situation is truly lamentable, if the condition of the law is that he is liable to be punished by the parent for disobeying his orders in regard to his studies, and the teacher may lawfully chastise him for not disobeying his parents in that particular <sup>1</sup>.

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<sup>1</sup> 432.

## CHAPTER VIII

### THE BIBLE AND RELIGIOUS EXERCISES

*The law in New York.*—In New York the decisions of the State Department have uniformly denied the right to insist upon religious exercises of any kind. See page 44.

In the year 1853, Margaret Gifford, a common-school teacher in South Easton, Washington county, ordered William Callaghan, a pupil aged twelve years, "to study and read the Protestant Testament." He declined to do so, on the ground "that he was a Catholic, and did not believe in any but the Catholic Bible." The teacher consulted the trustees on the subject, and on the next day again required the boy to read out of the King James Bible. The boy declared "his unwillingness to disobey the orders of his parents and violate the precepts of his religion", whereupon the teacher "chastised him severely with her ferule and then expelled him ignominiously from the school."

An appeal was taken to Henry S. Randall, then Superintendent of Common Schools, who quoted and endorsed the following opinion of his predecessor, John C. Spencer :

*"Prayers cannot form any part of the school exercises, or be regulated by the school discipline.* If had at all, they should be had before the hour of nine o'clock, the usual hour for commencing school in the morning, and after five in the afternoon. If any parents are desirous of habituating their children to the practice of thanking their Creator for his protection during the night, and invoking his blessings on the labors of the day, they have a right to place them under the charge of the teacher for that purpose. But neither they nor the teacher have any authority to compel

the children of other parents who object to the practice from dislike of the individual or his creed, or from any other cause, to unite in such prayers. And, on the other hand, the latter have no right to obstruct the former in the discharge of what they deem a sacred duty. Both parents have rights; and it is only by a mutual and reciprocal regard by each to the rights of the other that peace can be maintained or a school can flourish. The teacher may assemble in his room before nine o'clock the children of those parents who desire him to conduct their religious exercises for them; and the children of those who object to the practice will be allowed to retire or absent themselves from the room. If they persist in remaining there, they must conduct with the decorum and propriety becoming the occasion. If they do not so conduct, they may be dealt with as intruders."—*Orders and Decisions*, viii. 102.

Superintendent Randall, after stating that this is the first instance in which an appeal in regard to the reading of the Bible has been brought before the Department, then goes on to discuss the general question of the connection of intellectual and religious instruction, and concludes as follows:

"I believe the Holy Scriptures, and especially that portion of them known as the New Testament, are proper to be read in schools by pupils who have attained sufficient literary and mental culture to understand their import. I believe they may, as a matter of right, be read as a class-book by those whose parents desire it. *But I am clearly of the opinion that the reading of no version of them can be forced on those whose consciences and religion object to such version.*

"Assuming the facts stated in the complaint to be true, I consider the conduct of the teacher, Margaret Gifford, to be not only unwarrantable but barbarous. That she should not only 'ignominiously expel' the pupil, but that she should gratuitously inflict a preliminary castigation on a child of tender years, who plead the 'commands of his parents and the precepts of his religion' against the obeyal of her orders, betrays feelings as unusual to her sex as repugnant to the mild precepts of that Gospel which, I trust, with honest though certainly with mis-

taken zeal, she was attempting to uphold. Perhaps she deserves a lesser measure of reprehension if she acted, as would appear, though it is not expressly stated, under direction of the trustees. But neither the trustees, the majority of the people of the district, the town superintendent, nor all of these united, would have power to authorize such an outrage."—*N. Y. Teacher*, ii. 279-282.

In accordance with this decision, it has been uniformly ruled that pupils cannot be compelled to attend religious services (D. 1753, 1763), and that the law gives no authority, as a matter of right, to use any portion of the regular school hours in conducting any religious exercises at which the attendance of pupils is made compulsory<sup>1</sup> (D. 1985). See page 45. As to religious garb, see page 109.

*In other States*, usage varies. See *Cooley on Torts*, page 289.

Mass. (45) requires the daily reading in the public schools of some portion of the Bible.

In Mo. the trustees may compel the reading of the Bible<sup>2</sup>; and in Ill. a boy may be expelled for studying his lessons while the Bible is being read<sup>3</sup>.

In Ga. (17) the Bible may not be excluded.

In Ia. (57) and R. I. (351) neither the parents nor the trustees may dictate to the teacher as to whether he shall read the Bible. It is left to the teacher's own judgment.

In Ark. (77) the matter is left to the trustees, and the courts may not interfere.

In N. D. (63) and S. D. (49) the Bible may not be deemed a sectarian book, or excluded from any public school. It may at the option of the teacher be read without sectarian comment, not to exceed 10 minutes daily.

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<sup>1</sup> 294.

<sup>2</sup> 226.

<sup>3</sup> 54.



In most States that permit Bible-reading, no pupil can be compelled, against his parent's wishes, to take part in the reading or to be present during the reading<sup>1</sup>. N. D. (63).

But in Me. a child expelled for refusing to read from the Bible cannot recover damages<sup>2</sup>.

Ark. (36) forbids granting a certificate to a teacher who does not believe in a Supreme Being, and R. I. (307) advises the rejection of any teacher who is in the habit of ridiculing, or scoffing at religion.

On the other hand, Wash. (130) prohibits Bible-reading; Ariz. (27) revokes the certificate of any teacher who conducts religious exercises in school; and in 1890 the Supreme Court of Wisconsin decided that the reading of the Bible in the public schools is unconstitutional<sup>3</sup>.—*S. B.* xvi. 73.

In 1869, the Cincinnati school-board was upheld in forbidding the reading of the Bible<sup>4</sup>, and the same action was taken in 1875 by Chicago<sup>5</sup>, and in 1878 by New Haven.

*Religious services in the schoolhouse* may be permitted in New York by the trustees, where there is no opposition in the district<sup>6</sup>, but must be forbidden when they would cause dissension (D. 3577, 3651, 3707, 4021, 4061, 4164, 4419). See page 32.

So in Ark. (51), N. J. (21), Utah (9), W. Va. (39). But in some States they are forbidden<sup>7</sup>. R. I. (122).

<sup>1</sup> 121, 179.

<sup>2</sup> 154.

<sup>3</sup> 441.

<sup>4</sup> 338.

<sup>5</sup> 54.

<sup>6</sup> 35 a, 52 a, 73 a, 109 a, 113 a, 398.

<sup>7</sup> 18 a, 127 a, 222 b, 232 a, 430 b,

## CHAPTER IX

### EXTENT OF AUTHORITY

EXCEPT as to the power of compelling the pupil to attend school punctually upon all school-days (see Chapter VI), and to take all the studies pursued by a certain class (see Chapter VII), the relation of the teacher's authority to that of the parents may be considered definitely established.

*Derivation of authority.*—The teacher does not derive his authority from the parents. He holds a public office created by the law. He is legally responsible only to the trustees who hire him. Between the teacher and the child the parent can personally interfere only by removing the child from the school<sup>1</sup>.

*The extent of the teacher's authority may be considered under the following heads :*

- a.* In the school-room.
- b.* On the playground.
- c.* On the road to and from school.
- d.* At the pupil's home.
- e.* Recess.
- f.* Detention after school.
- g.* Punishment to be inflicted only in the schoolroom.

**a. In the school-room, absolute.**—In the school-

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<sup>1</sup> 154, 295, 340, 411, 436.

room the teacher has the exclusive control and supervision of his pupils, subject only to such regulations and directions as may be prescribed or given by the trustees.

The schoolhouse is the schoolmaster's castle. Upon this point the following forcible statement is fully warranted :

This old maxim of English law<sup>1</sup> (5 Rep. 92), is as applicable to the schoolmaster as to any other person who is in the lawful possession of a house. It is true that the school-officers, as such, have certain rights in the schoolhouse ; but the law will not allow even them to interfere with the teacher while he keeps strictly within the line of his duty. Having been legally put in possession, he can hold it for the purposes and the time agreed upon ; and no parent, not even the Governor of the State, nor the President of the United States, has any right to enter it and disturb him in the lawful performance of his duties. If persons do so enter, he should order them out ; and if they do not go, on being requested to do so, he may use such force as is necessary to eject them. And if he find that he is unable to put them out himself, he may call on others to assist him, and if no more force is employed than is actually necessary to remove the intruder, the law will justify the teacher's act and the acts of those who assisted him<sup>2</sup>. See *Wharton's Am. Criminal Law*, 1256.

*Trustees* as individuals have no authority in the school-room, as has already been shown, page 139.

However, a trustee at the schoolhouse before the opening of school being addressed by one of the pupils in a profane and insulting manner ordered him to leave the room, and on his refusing was justified in putting him out by force<sup>3</sup>.

*Protection by law.*—The teacher's best defence against querulous or insulting visits of parents to the

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<sup>1</sup> 460.    <sup>2</sup> 149, 192, 291, 313, 320, 355 a, 457, 458.    <sup>3</sup> 21, 149, 170, 171, 401.

school-room was found in that provision formerly a part of the New York statute, which read thus :

Any person who shall wilfully disturb, interrupt, or disquiet any district school \* \* \* shall forfeit \$25 for the benefit of the school district.

It shall be the duty of the trustees of the district, or the teacher of the school, and he shall have the power to enter a complaint against such offender before any justice of the peace of the county. \* \* \* The magistrate \* \* \* shall thereupon \* \* \* cause the person to be arrested and brought before him for trial.

This provision was omitted from the consolidated school law of 1894, but is practically covered by § 448 of the Penal Code. Nearly every other State has a similar provision in the school law.

Even when a private school or a singing school is taught in the district schoolhouse, a person can be punished for disturbing it<sup>1</sup>. The same is true of a singing school<sup>2</sup>.

R. I. (357) reminds the teacher that while the law holds him responsible for his acts in the school-room, it also protects him while therein employed from all external or unofficial interference. No private person has any right, in any circumstances, to enter a school-room in school hours to make any complaint or to disturb the school in any way. The statute law provides a specific penalty for such an offence.

In Cal. (40) and Wash. (42), any parent, guardian, or any other person who shall insult or abuse any teacher in the presence of the school shall be guilty of a misdemeanor, and shall be liable to a fine of not less than \$10 nor exceeding \$100. Ariz. (36) makes the limits \$50 and \$100, with an alternative of imprisonment for 3 months.

In Wy. (41) any person who shall use insulting and abusive language to and toward any teacher in or about any public schoolhouse, or who shall wilfully disturb any public school or district meeting, shall be deemed guilty of a misdemeanor, and,

<sup>1</sup> 152 a.

<sup>2</sup> 18.

upon conviction, shall be fined in any sum not less than \$5, and not exceeding \$100.

**b. On the playground, absolute.**—The conduct of the pupils upon any part of the premises connected with the same schoolhouse or in the immediate vicinity of the same (the pupils being thus virtually under the care and oversight of the teacher), whether within the regular school hours or before or after them, is properly cognizable by the teacher. And any disturbance made by them within this range, injuriously affecting in any way the interests of the school, may clearly be the subject of reproof and correction by the teacher.

A teacher has the right to forbid the use of tobacco by pupils on the school grounds.—*Sup't Ruggles*, Jan. 31, 1885.—*S. B.* xii. 62.

**c. On the road, concurrent.**—In regard to what transpires by the way in going to and returning from school, the authority of the teacher is in most States except New York (see page 176) regarded as concurrent with that of the parent<sup>1</sup>.

So far as offences are concerned for which the pupils committing them would be answerable to the laws, such as larceny, trespasses, etc., which come particularly within the category of crimes against the State, it is the wisest course generally for the teacher (whatever be his legal power\*), to let the offender pass into the hands of judicial or parental authority, and thus avoid being involved in controversies with parents and others, and exposing himself to the liability of being harrassed by prosecution at law.

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<sup>1</sup> 107, 108, 232, 236, 390, 392, 410.

\* The teacher cannot punish a pupil for refusing to confess a crime for which he might be punished at law.—*Public School Acts of Rhode Island*, 1857, n. 53.

But as to any misdemeanors of which the pupils are guilty in passing from the schoolhouse to their homes, which directly and injuriously affect the good order and government of the school, and the right training of scholars, such as truancy, wilful tardiness, quarrelling with other children, the use of indecent and profane language, etc., there can be no doubt that these come within the jurisdiction of the teacher, and are properly matters for discipline in the school.

A famous decision of the supreme court of Vermont<sup>1</sup> illustrates and fully accords with the foregoing positions. The courts decided that such misdemeanors have a direct and immediate tendency to injure the school by subverting the teacher's authority, and begetting disorder and insubordination among the pupils. The same doctrine is substantially recognized by the supreme courts in some other States. \* \* \* The governing principle in all cases like the Vermont case is, that *whatever in the misconduct of pupils under like circumstances, as to time and place, etc., has a direct tendency to injure the school in its important interests, is properly a subject of discipline in the school.*

It is sometimes objected to the foregoing views that the responsibilities of teachers are in this way enlarged to an improper extent; that if their authority extends beyond the schoolhouse limits and the school hours, their responsibilities must be increased in a corresponding ratio. But to this it may be answered, that the matter is to have a reasonable construction; that it cannot be expected that a teacher will follow his pupils into the streets to watch their conduct when beyond his view and inspection; the extent of his duty in this respect can be only to take cognizance of such misconduct of his pupils, under the supposed circumstances, as may come to his knowledge incidentally, either through his own observation or other proper means of information.

MANY STATES recognize this principle in their statutes. Ariz. (26), Cal. (26), Id. (26), Ia. (38), Mo. (14), Mont. (45), N. J. (26), N. C. (32), Ohio, (66), Ore. (70), Tenn. (9, 15).

In Mass. (44) while the pupils are on their way to and from school, the authority of the teacher may be considered as concur-

rent with that of the parent or guardian. If the pupils in coming to school, or in going from it to their homes, commit an offence against the civil laws, it will be well to leave the offenders in the hands of judicial or parental authority. But if the children quarrel on their way, or are wilfully tardy, or use indecent and profane language, or in any way by their conduct injure the good order and discipline of the school, the teacher may take notice of such conduct by subjecting the offender to such wise and judicious treatment as will have a tendency to prevent a repetition of the offence. In such cases the teacher should exercise great caution not to use any doubtful authority, or any questionable modes of correction.

HORACE MANN'S OPINION.—In the 10th Mass. Report Horace Mann thus laid down the law which may be considered as still prevailing :

On the one hand, there is certainly some limit to the jurisdiction of the committee and teachers, out of school hours and out of the schoolhouse; and, on the other hand, it is equally plain, if their jurisdiction does not commence until the minute for opening school has arrived, nor until the pupil has passed within the door of the school-room, that all the authority left to them in regard to some of the most sacred objects for which our schools were instituted would be of little avail. To what purpose would the teacher prohibit profane or obscene language among his scholars within the school-room and during school hours, if they could indulge in it with impunity and to any extent of wantonness as soon as the hour for dismissing school should arrive? To what purpose would he forbid quarrelling and fighting among the scholars, at recess, if they could engage in single combat or marshal themselves into hostile parties for a general encounter within the precincts of the schoolhouse, within the next five minutes after the schoolhouse should be closed? *And to what purpose would he repress insolence to himself, if a scholar, as soon as he has passed the threshold, might shake his fist in his teacher's face, and challenge him to personal combat?* These considerations would seem to show that there must be a portion of time, both before the school commences and after it has closed, and also a portion of space between the door of the schoolhouse and that of the parental mansion, where the jurisdiction of the parent on one side and of the committee and teachers on the other is concurrent.

It is remarked in Ohio (67) that in general, the courts of the eastern States, notably the supreme court of Vermont, in their decisions sustain the authority of the teacher and the doctrine that he stands *in loco parentis* much more fully than do the western courts.

In 1859, a teacher in Bedford, Ind., named Ariel Flynn, punished a boy on his way home from school for an act which the teacher saw him commit at that time. The court instructed the jury that although the defendant as a teacher was by law vested with the delegated authority to exercise control over the boy as his pupil during school hours, yet after the adjournment of his school, and after the boy had left him and was on his way home, his authority over him had terminated, and his act of administering correction under the circumstances was unauthorized by law.—*American Educational Monthly*, ii. 297.

*In New York*, the decisions of the State superintendents have uniformly denied that the teacher has either authority or responsibility, following the precedent established in the following paragraph in a Digest of the Common School System of the State, S. S. Randall, 1844, p. 262:

The authority of the teacher to punish his scholars extends to acts done in the school-room or playground only ; and he has no legal right to punish for improper or disorderly conduct elsewhere.—*Per Spencer, Sup't.*

Thus Sup't Gilmour ruled :

I am aware of the existence of no law under which trustees or teachers have the right to regulate the conduct of scholars out of school hours and when away from the school.

Sup't Ruggles wrote Jan. 31, 1885 :

It has been held by this Department, that a teacher's authority over pupils ceases after the close of school and when they retire from the school-grounds.—*S. B.* xii. 62.

Sup't Draper expressed to the author the same opinion ; and decided that the teacher had no right to suspend a boy for refusing to remain on the school-ground during the noon recess, according to



a rule established by the teacher. He held that a boy had a right to go where he chose during the noon recess, provided that it was with his parents' knowledge and consent (D. 3698).

On the other hand, in 1882 a Buffalo principal saw two of his school-boys after school fighting outside the school premises, and sent a messenger commanding them to desist, and come to him at once. They refused, and the next day when they came to school he punished them. He was arrested for assault and battery, and brought before Justice King, who discharged him, ruling that one of the most important duties of teachers is to train and qualify their pupils to become useful and law-abiding members of society; this duty cannot be effectively performed without ability to command obedience, and reform bad habits; to enable the teacher to exercise this salutary sway, he is armed with the power of the parent, that is, he stands *in loco parentis*, and is entitled in law and in reason to employ the means necessary to answer the purpose for which he is employed; and, finally, that the teacher has jurisdiction over the acts of pupils coming to, and going from school, if those acts tend to subvert the best interests, or the character, of the school, all of which is well settled by common sense and law.—*S. B.* viii. 136.

In Nev. (22) it is made a misdemeanor for any person or persons to detain, beat, whip or otherwise interfere with any pupil or pupils attending any public school, in the State of Nevada on his, her, or their way to or from such school, against the will of such pupil or pupils.

**d. After the pupil reaches home, the rules of the school have no authority over him<sup>1</sup>. Mo. (14).**

A pupil cannot be punished in school for not having done lessons at home, when forbidden by the parent to do so. "Ordin-

arily, an important part of a child's education is the study at home, but here the child has been punished for disobedience to an order which the master had no right to make<sup>1</sup>,"

Nor can a pupil be expelled for attending a social party contrary to the rules of the school<sup>2</sup>, or for reflecting on the trustee in a newspaper article<sup>3</sup>.

So the officers of a university may not refuse admission to or exclude students because they are members of a secret college society, or will not pledge themselves not to become so <sup>4</sup>.

In Mass., however, it was held that Charlotte A. Sherman was rightly expelled for acts of immorality and licentiousness committed out of school<sup>5</sup>.

**e. Recess belongs to the pupil, especially the noon intermission.**

A pupil was denied the privileges of the school because he persisted in leaving the school-grounds during the noon recess.

*Held*, an insufficient cause. That the teacher has no claim upon the pupil's time during the recess (D. 3698).

No pupil shall be detained in school during the intermission at noon, and a pupil detained at any recess shall be permitted to go out immediately thereafter. All pupils, except those detained for punishment, shall be required to pass out of the school-rooms at recess, unless it would occasion an exposure of health. Ariz. (44).

Ariz. (47) provides that no pupil shall be permitted to leave school at recess, or at any other time before the regular hour for closing school, except in case of sickness or on written request of parent or guardian, but this evidently does not apply to the noon intermission.

**f. Detention after school.**—It has usually been held that teachers may, at their discretion, detain scholars a reasonable time after the regular school hours, for reasons connected with the discipline, order, or instruction of the school.

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<sup>1</sup> 455 a.    <sup>2</sup> 223 a, 224, 232.    <sup>3</sup> 107.    <sup>4</sup> 11, 12, 43, 46, 49, 76 a, 202, 253.  
<sup>5</sup> 185.

This practice has been sanctioned by general usage, and by the authority of school boards, expressed or implied. There is in most States no law defining precisely *school hours*, as they are termed, or the hours within which schools are to be kept. This is regulated by usage, or by the directions of school boards, varying in different localities, and also in different seasons of the year. The practice under consideration, of occasionally detaining pupils after the regular school hours for objects connected with the school arrangements, rests upon precisely the same authority.

It is questionable, however, whether under the restrictions placed in New York upon the teacher's authority (see page 176), this custom is legal. If the teacher's authority is limited to the school-grounds, it would seem to be limited by the school hours. Ia. (38) forbids the teacher to detain the pupil after school against the wish of the parent.

**g. Punishment must be inflicted only on school premises, even where permitted for offences out of school.**

## CHAPTER X

### CORPORAL PUNISHMENT

*A legal right to enforce discipline by means of corporal punishment exists in all schools where it has not been expressly forbidden by statute or by regulation. This is conferred by usage and confirmed by legal decision*<sup>1</sup>.—*Blackstone's Commentaries*, i. 453.

The schoolmaster has a right to give moderate corporal correction to his pupils for disobedience to his lawful commands, for negligence, or for insolent conduct. A schoolmaster, *in his own right*, and not by delegation, possesses this authority.—*Reeves's Domestic Relations*, p. 534.

Ala. (165-172) treats this subject at length, and all States recognize this principle, except N. J. (26), which forbids corporal punishment. Fla. (60), Pa. (137), Wis. (44), etc.

The law applying to public and private schools is the same so far as relates to the discipline of the school<sup>2</sup>.

If a person over 21 years old voluntarily attends school, he is subject to the same discipline as children of school age<sup>3</sup>. A man teacher has been sustained for whipping a woman pupil 21 years old<sup>4</sup>.

The principal may of course punish for offences committed in other departments of the school.

From an address by Prof. James S. Pertle, of the law department of the University of Louisville, we quote :

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<sup>1</sup> 112, 320, 323, 326, 328, 358, 379, 396 a, 403, 409, 436, 450.

<sup>2</sup> 258.

<sup>3</sup> 112, 149, 432.

<sup>4</sup> 100 a.

The teacher is often spoken of as standing to the pupil in the place of a parent, *in loco parentis*, while the relation continues, and it is said that the teacher has therefore the same power over the pupil that the parent has, and may use the same means of enforcing obedience that a parent may under the law. \* \* \* Blackstone and Reeves state this view as the proper doctrine, with a limitation that a teacher has the power of restraint and corrections to such an extent as may be necessary to answer the purpose for which the teacher is employed.

It seems evident that there must be a difference between the power which the teacher has over the child and that which the parent has. The teacher has the welfare of his pupil in view, and is actuated, in enforcing discipline in his school, only by the highest motives; his affection for his pupils is a restraint upon his passions, and his humanity is an additional safe-guard against undue harshness to the children under his charge. Yet the teacher, however kind, however just, however self-controlled, has not the same or equal motive for consideration for the pupil that a judicious and kind parent has. \* \* \* That which will be excused in a parent would not be permitted in a teacher. All parents are not kind and judicious, and yet, unless the treatment of a child by its parents amounts to cruelty, the law does not interfere. So that the teacher must keep himself under greater restraint in his management of his pupil than the parent of the same pupil is required to preserve. The supreme court of Vermont stated the law, on the occasion of a controversy between a teacher and a pupil growing out of a punishment inflicted upon the latter by the former, in these words:

The parent unquestionably is answerable only for malice or wicked motives or an evil heart in punishing his child. This great, and, to some extent, irresponsible power of control and correction is invested in the parent by nature and necessity. It springs from the natural relation of parent and child. It is felt rather as a duty than a power. \* \* \* This power is little liable to abuse, for it is continually restrained by natural affection, the tenderness which a parent feels for his offspring, an affection ever on the alert and acting rather by instinct than by reasoning. The school-master has no such natural restraint. Hence he may not be trusted with all a parent's authority, for he does not act from the instinct of paternal affection. He should be guided and restrained by judgment and wise discretion, and hence is responsible for their reasonable exercise.

The last sentence concisely states the true limit of the teacher's power and duty in the matter of discipline.

*General principles.*—The following principles seem to be established.

**a. Largely in the judgment of the teacher.**—A school teacher while in the school-room is responsible for maintaining good order, and he must be the judge to some extent of the degrees and nature of the punishment required when his authority is set at defiance; and although he will be held amenable to the law for any abuse of this discretion, still he will not be held liable on the ground of excessive punishment unless the punishment is clearly excessive, and would be held so in the judgment of reasonable men. The teacher should have the benefit of the doubt<sup>1</sup>. — *Kent's Commentaries*, 203–206; *Wharton's Criminal Law*, 9th ed. § 632.

The law presumes that the teacher acts correctly and with justice, and it must be shown by evidence that he has not so acted.—*Cooley's Constitutional Limitations*, 421.

The teacher has even been sustained for whipping a child for coughing in school, where in his judgment it was done voluntarily to disturb the school<sup>2</sup>.

In a decision rendered by the New York general term at Ithaca, 1879, where a boy was punished for addressing an indecent remark to a woman teacher, the court held :

There can be no doubt that the boy deserved a sound punishment. He was old enough to know the meaning of the words

<sup>1</sup> 80, 156, 254, 322, 324, 358, 379, 393, 397, 409, 411, 436. But see 142 a.

<sup>2</sup> 259.

and the gross impropriety of using them to any teacher, and especially to a lady. And when the offence was undoubtedly committed, and was wilful and indecent, and the offender was no longer a mere child, *neither courts nor juries should be quick to criticise an excess of severity into which the proper indignation of the teacher may have led him.*

In Potter's "Devorris", page 518, it is said that "*In deciding questions of discipline the teacher acts judicially and is not to be made liable, either civilly or criminally unless he has acted with express malice and been guilty of such excess in punishment that malice must be implied.*" And again at page 530: "When the correction administered is not in itself immoderate and therefore beyond the authority of the teacher, its legality or illegality must depend entirely we think on the *quo animo* with which it is administered. *Within the sphere of his authority the master is the judge where correction is required, and the degree of correction necessary, and like others entrusted with a discretion, he can not be made penally responsible for error of judgment, but only for wickedness of purpose.*"—S. B. vi. 35.

**b. Any required force** may be employed. It is the teacher's first duty to be master of the school.

A teacher may use whatever force is necessary to take a pistol away from a pupil<sup>1</sup>.

In 1880 Francis J. Cheney, then principal of the Dryden union school, wished to punish a boy nearly 18 years old, but expected resistance and asked two of the larger boys to assist him in case there should be resistance. As expected, the boy rebelled, assuming a threatening position and declaring defiantly that he would not be whipped. At this point the two pupils laid the boy on the floor and held him down while the teacher whipped him with a maple ruler. The case was tried before the court of special sessions, and the defence insisted that when the law gave the teacher a right to inflict punishment it gave him also the right to choose the means of punishment, and that it was more to his credit to call in sufficient help to inflict the punish-

ment in a proper and human manner than it would have been to enter into a fight with the pupil. A Maine decision<sup>1</sup> was quoted, where it was decided that a scholar who placed himself in the teacher's desk and refused to leave it might be removed by the assistance of other pupils whom the teacher summoned. The jury brought in a verdict in favor of the teacher.—*S. B.* vi. 82.

On July 21, 1865, John G. Lewis, principal of one of the public schools of New Haven, Conn., was brought before the city court for assault and battery on Francis M. Hoban, one of his pupils. The court stated the case, and decided it as follows:

“On the 21st of July last, and during the regular school hours, Mr. Lewis, as a punishment for some supposed misdemeanor on the part of young Hoban, directed him to take his book and go to the recitation room. The order was reluctantly obeyed. At the closing of the school, but before the pupils had retired, he came out of the room without permission, and was immediately ordered back by the teacher. The order was several times repeated and Hoban repeatedly refused to obey. Seizing two or three brushes, which were lying near by, with oaths and language most foul, and threats of violence if the teacher approached him, he dared him to come on, and all this in the presence of a large number of the scholars. Hoban is a boy of fourteen years of age, of fair size for his years, and, as it would seem, possessed of more than ordinary strength. It is clear, under all the circumstances, there was but one course for the teacher to pursue. He must vindicate his authority. It was necessary for the good of the school, as well as of the boy himself, that he should learn obedience and submission to that authority. For the milder offence, a milder punishment had been inflicted by sending to the recitation-room to study by himself. For the more serious offences, the insults to the teacher, the refusal to obey a proper command, the vulgar and profane language, the threats to kill the teacher if he should attempt to whip him, it was manifestly fitting and proper that he should receive a severe punishment. Mr. Lewis now approached the boy, who endeavored to strike him with the brushes. A struggle ensued, in which the teacher, notwithstanding the



violent resistance of the pupil, succeeded in pushing him into the recitation-room ; but I do not find that he used more force than was necessary to accomplish this object. I do not find that the whipping was either cruel or excessive, and though severe, taking into consideration all the circumstances under which it was inflicted, it was not in my judgment unreasonable, but entirely justifiable. The accused is therefore discharged."—*Am. Ed. Mo.* ii. 372.

In England it has been held that where a schoolmaster wrote to a parent and obtained the parent's consent to beat the pupil severely to subdue his alleged obstinacy, and the teacher beat the boy for two hours and a half secretly in the night, and with a thick stick, until the pupil died from the effects of the beating, such teacher was guilty of manslaughter only, no malice having been proved<sup>1</sup>.

**c. No unreasonable violence** must be employed. A school teacher is liable criminally if, in inflicting punishment upon his pupil, except necessarily in self-defence where the pupil *attacks him*, he goes beyond the limit of reasonable castigation, and either in mode or degree of correction, is guilty of unreasonable or disproportionate violence.

Whether the punishment was excessive under the circumstances, is a question for the jury<sup>2</sup>.

**d. Sufficient cause** must be shown.

The legal objects and purposes of punishment in schools are like the objects and purposes of the State in punishing the citizen. They are three-fold: (1) the reformation and highest good of the pupil ; (2) the enforcement and maintenance of correct discipline in school ; (3) as an example to like evil doers. And in no case can the punishment be justifiable unless it be inflicted for some definite offence or offences which the pupil has committed, and the pupil is given to understand he or she is being

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<sup>1</sup> 449.

<sup>2</sup> 72, 150, 189, 330, 379, 449.

punished for. \* \* \* It does not require the teacher to state to the pupil in clear and distinct terms the offence for which he or she is being punished. It only requires that the pupil as a reasonable being, should understand from what occurs for what the punishment is inflicted<sup>1</sup>.

In Ind. a rule requiring pay for school property wantonly or carelessly destroyed should not be enforced by corporal punishment<sup>2</sup>. See pages 146, 153, 158, 160, 166, 175, 176, 177, 179.

**e. The instrument** must be suitable.

There also can be no doubt that if a master were deliberately to strike a pupil with some weapon dangerous in itself, and likely (considering the pupil's age and strength) to kill or maim, and death were to follow as a consequence of such improper correction, the master would be guilty of murder<sup>3</sup>.—*Russell on Crimes*, 5th ed., i. 773; *Archibald's Crim. Prac.*, i. 218; *Bishop's Crim. Law*, 7th ed., §§ 881, 2. Compare instance on page 183.

**f. The part of the person** to which it is applied must be such that no danger will result.

In England, a master gave a boy four strokes on the hand with a cane, and Judge Mathew acquitted the master, ruling :

When parliament lays down a chart showing the particular regions of the body to which corporal punishment in schools is to be confined, the court will take care that these limits are not overstepped ; at present there is no such chart<sup>4</sup>.

Feruling upon the palms of the hands, and whipping upon the legs and especially upon the fleshy part of the thighs, are the safest. In case the pupil attacks the teacher, however, the teacher will be sustained in defending himself by any blows that may be necessary.

Boxing the ears is among the most unpardonable of punishments, as it may produce deafness.

<sup>1</sup> 114.

<sup>2</sup> 97.

<sup>3</sup> 326.

<sup>4</sup> 451, 456.

**g. In proper spirit.**—Punishment must not be administered by the teacher in malice, and for the purpose of gratifying a malicious feeling, but only in a proper spirit, with the sole object of maintaining his authority and preserving the order and decorum of his school.—*Reeves's Dom. Rel.*, 4th ed., p. 357.

Hence many schools have regulations that corporal punishment shall be inflicted only after delay which will give the teacher's temper time to subside.

In Ariz. (48) any teacher before inflicting corporal punishment upon a pupil must first notify the parents or guardian and one member of the board of trustees of his or her intention at least one day before such punishment is to be inflicted, stating the day and hour at which the punishment will be inflicted, and extending an invitation to such parent and one trustee to be present.

The Arizona statute also provides that the punishment must not be inflicted in the presence of the school.

It must be kept in mind that all such specifications assume that the teacher's authority is undisputed. Where that is attacked and he must defend himself and it, rules like this no longer apply.

### **h. Proportionate to the offence and to the pupil.**

—The punishment should bear proportion to the gravity of the fault, and be graduated according to the age, strength, and mental condition of the pupil.

A beating which would be a trifling punishment to a strong lad of fourteen years, might be an act of extreme cruelty to a child of five ; and a punishment inflicted for failing to learn a lesson, which might be just and reasonable in the case of a child of ordinary intelligence, might be little short of barbarous in the case of one of low mental development<sup>1</sup>.

*A change in sentiment* is manifest in recent decisions. The teacher will not find it safe to rely upon

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<sup>1</sup> 2, 24, 189, 326, 358, 448, 449.

modern confirmation by the courts of many decisions once rendered and long considered good authority. The old common law as to the extent of corporal punishment was as follows :

The law confides to school teachers a discretionary power in the infliction of punishment upon their pupils, and will not hold them responsible criminally, unless the punishment be such as to occasion permanent injury to the child, or be inflicted merely to gratify their own evil passions.—*Wharton's Criminal Law*, 5th ed., i. 453.

But this remark is also found in Cooley's Blackstone, 2d ed., i. 453 :

It may be proper to observe, however, that public sentiment does not now tolerate such corporal punishment of pupils in schools as was formerly thought permissible and even necessary.

See also *Russell on Crimes*, 5th ed., i. 773.

When such punishment is proved to have been excessive and cruel, it is illegal<sup>1</sup>.

Every year this tendency is becoming more and more marked, and the teacher who cannot govern without severe corporal punishment will do well to retire from teaching before he is forced out. Thus Sup't Draper of New York ruled :

It is shown that he has beaten several pupils on different occasions with a stick three or four feet long, until he has drawn blood upon and disfigured their hands and heads, raised ridges upon their bodies, and produced lameness which continued for a week or more. \* \* \*

*The time has gone by* when such indignities may be inflicted upon children, or such scenes as this testimony depicts may be enacted in the presence of a public school. A teacher who has

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<sup>1</sup> 72, 379, 396 a, 409.

not character and self-possession, and who has not yet learned how to maintain discipline in a better way, is no longer wanted (D. 3863).

In Mont. (45) any teacher who shall maltreat or abuse any pupil by administering any undue or severe punishment, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction shall be fined in any sum not exceeding \$100.

In Indiana the court held: "In one respect the tendency of the rod is so evidently evil that it might perhaps be arrested on the ground of public policy. The practice has an inherent proneness to abuse. The very act of whipping engenders passion, and very generally leads to excess. Where one or two stripes only were at first intended, several usually follow, each increasing in vigor as the act of striking influences the passions. Hence, the spirit of the law is, and the leaning of the courts should be, to discountenance a practice which tends to excite human passions to heated and excessive action, ending in abuse and breaches of the peace. \* \* \* One thing seems obvious. The very act of resorting to the rod demonstrates the incapacity of the teacher for one of the most important parts of his vocation—namely, school government. For such a teacher the nurseries of the republic are not the proper element. They are above him. His true position will readily suggest itself. It can hardly be doubted that public opinion will in time strike the ferule from the hands of the teacher, leaving him, as the true basis of government, only the resources of his intellect and heart. \* \* \* Why the person of the school boy, with his shining morning face, should be less sacred than that of the apprentice and sailor is not easily explained<sup>1</sup>."

No line can be drawn between the use of the rod and its abuse; but the following cases will illustrate actual decisions:

(1) A CASE IN NORTH CAROLINA.—Rachel Pendergast kept a school for small children, and punished one of them with a rod

to such an extent as to leave marks, all of which were likely to pass away in a short time and leave no permanent injury. The judge instructed the jury that if they believed that the child (six or seven years of age) had been whipped by the defendant at that tender age, with either a switch or other instrument, so as to produce the marks described to them, the defendant was guilty. The jury under this charge returned a verdict of guilty, and the case was afterward argued in the higher courts. Here Judge Easton held teachers exceed the limits of their authority when they cause lasting mischief, but act within the limits of it when they inflict temporary pain. In this case the marks were temporary, and in a short time disappeared. No permanent injury was done to the child. The only appearances that could warrant the belief or suspicion that the correction *threatened* permanent injury were the bruises on the neck and arms; and these, to say the least, were too equivocal to justify the court in assuming that they did threaten such mischief. We think, also, that the jury should have been further instructed, that however severe the pain inflicted, and however, in their judgment, it might seem disproportionate to the alleged negligence or offence of so young and tender a child, yet if it did not tend to produce or threaten lasting mischief, it was their duty to acquit the defendant; unless the facts testified induced a conviction in their minds that the defendant did not act honestly in the performance of duty, according to her sense of right, but under the pretence of duty was gratifying malice<sup>1</sup>.

(2) A CASE IN ILLINOIS.—In Fairfield, Ill., a boy over fourteen failed to learn his grammar lesson. The teacher ordered him to take off his coat to be whipped, or to be expelled. The boy refused, and was expelled. A controversy arose as to the demand made for the boy to pull off his coat. The superintendent's decision was as follows:

“The law will not sustain the teacher in so barbarous an act as compelling a pupil to take off his coat and be whipped for failing to learn a lesson. Such an act would subject the teacher to prosecution, and I do not believe there is a court in the State that

would not impose a fine upon him. \* \* \* In my opinion, any teacher that cannot create an interest in his pupils on the side of good order and good lessons without resorting to such means, is not fit for the school-room, and the sooner a district dispenses with his services the better."—*Ed. Weekly*, Nov. 15, 1877.

(3) FOUR CASES IN NEW YORK.—(i) The facts appear to be that the pupil flatly refused to obey the teacher, by not taking the seat he was directed to take. The teacher came toward the boy, intending to compel him by force to take the seat assigned to him. The boy, with an oath, bade the teacher not to come near him, and, as the teacher approached, the boy struck at him several times. The teacher caught the boy, and with force put him in his seat, the boy meantime kicking, striking, yelling, and swearing. To stop this outrageous and unseemly noise, the teacher took the most effectual measure at his command; he intercepted the passage of air between the lungs and the vocal organs long enough to suppress the disturbance, but not long enough to injure the boy. But the boy was not subdued by any such gentle restraint, for no sooner was he left alone than he ran out of doors. The teacher pursued and caught him, and brought him back to the school-room, not, it appears, without some considerable force, for the boy struggled with all his strength; and it would really not be strange if in the struggle he received some severe blows. And for this the superintendent is asked to annul the certificate of the teacher. I decline to do anything of the kind. The teacher, in the matter of the boy, did no more than he was compelled to do; he might have done much more, and still be acquitted of inflicting cruel and unusual punishment. It was not cruel, and if it was unusual, it was only so because the conduct of the boy was unusual.—*Sup't Rice*, March 24, 1862.

(ii) A teacher, for an act of disobedience, ordered a boy, fifteen years of age, to hold out a book of the ordinary size used in school, at arm's length, level with his shoulder. The boy, after holding it in that position from five to eight minutes, let it fall and said he could not hold it any longer. On being ordered to hold it out again, he peremptorily refused. The teacher then, with a curled maple rule, over twenty inches long, one and three-quarters wide, and half an inch thick, struck him from fifteen to

twenty blows on his back and thighs, and in so severe a manner as to disable him from leaving the school without assistance. A physician was called, and found his back and limbs badly bruised and swollen. The teacher on the succeeding day sent him to a physician, who pronounced him "very badly bruised". It was ten or twelve days before he so far recovered as to be able to attend school. The superintendent expresses his unqualified disapprobation of a punishment so severe and unreasonable. If the disobedience of the boy had been the result of sheer obstinacy and wilfulness, it could not justify the infliction of fifteen or twenty blows with such a bludgeon upon the back and thigh of a boy, disabling him for a fortnight. Such a measure of punishment for such an offence would be sufficient ground for annulling a certificate.—*Sup't Young*, March 29, 1843.

(iii) The only pupils in said school who complain that they were punished by the respondent in a cruel, unreasonable, excessive, and improper manner are Jessie Morgan, Anson Tobias, Richard D. Fish and Ernest L. Smith, each of whom has made an affidavit relative to the punishment received by him respectively. It appears from the proof that the respondent punished the pupil, Morgan, three times, twice with a ruler and once with a small piece of pine siding, by three or four blows upon his person. Morgan states in his affidavit that at one of these punishments he fainted; but that is denied by the respondent, and it appears in proof that Morgan admitted to divers persons that he did not faint upon such occasion. It appears that Morgan was punished for running away from school, for getting angry and refusing to be shown in relation to a lesson, and refusing to obey his teacher, and for conspiring with two or three of the large boys in the school to resist the respondent in the performance of his duties. That the pupil, Tobias, was punished for making an obscene mark and picture upon his desk. Tobias denied having made it, although one Ackerman saw him make it; but Tobias subsequently admitted that he made it. The punishment was administered by means of a rubber tubing about  $\frac{3}{8}$  of an inch in diameter, applied upon his person. That the pupil, Smith, by means of a rubber syringe, threw water upon other pupils in the school during school hours; that he was kept after school hours



and respondent gave him the choice of being punished or have his offence reported to the board of education, and that Smith replied he preferred to be punished, and thereupon the respondent punished him with a ruler applied to the person of said Smith. That the pupil, Fish, who is a son of the petitioner herein, was punished several times; once, on being kept after school hours for disorderly conduct in school, while the respondent was talking with him he became angry and struck the respondent with his fist, and the respondent slapped him upon his face with his hand and whipped him with a ruler; on another occasion, on said Fish being kept after school hours and refusing to get his lessons and talking in an impudent and saucy manner to the respondent, he was struck two or three times by respondent with a ruler; and the last punishment received by Fish from respondent was on February 8, 1894, when he told an untruth to the respondent, was disobedient, became angry with, and saucy and impudent to the respondent, and caused the other pupils in the school to laugh by making faces behind the back of the respondent. The nature and extent of the punishment received by said Fish is set out in a number of affidavits by pupils present, and both by Fish and the respondent.

Upon all the proofs presented as to the character of the punishment administered to the pupils, Morgan, Tobias, Smith, and Fish, by the respondent, I am of the opinion that such punishment was not cruel, unreasonable, or excessive. It is not shown that any of said pupils sustained any serious injury thereby; but it does appear that the pupil, Fish, was a disturbing element in the school (D. 4252).

(iv) In Nov., 1894, Miss Canfield, a teacher in the school at Marcellus, missed two cents from her desk, and believed a pupil named Charles E. George stole it. She testified that the boy had a new lead pencil, and told four conflicting stories as to how he got it. She reported him to Principal M. I. Hunt, who testified the boy also told him such conflicting stories that he finally took the boy down into the basement and spanked him with a piece of pine wood 15 to 18 inches long,  $1\frac{1}{2}$  inches wide, and a quarter-inch thick—in other words a piece of lath. The boy then said he

took the money, and told where he bought the pencil. Suit was brought in the supreme court and the case was tried in 1895. Miss Canfield testified that the boy came back into the room with eyes moist, but not crying, and at the close of the school jumped down four stairs and started on a run down the street. Dr. Totman testified that the boy had sustained no serious injury, and a verdict for the defendant seemed to be inevitable. Yet the jury brought in a verdict for \$100 against Mr. Hunt.—*S. B.* xxi. 54.

A comparison of the last two cases, decided the same year, will suggest how much safer it is for a teacher to trust such a case to the State superintendent than to the courts (see page 135), and how great danger he encounters before a jury if he inflicts corporal punishment at all.

## CHAPTER XI

### SUSPENSION AND EXPULSION

*The right to attend school* is not absolute, but is conditional upon compliance with the rules and regulations<sup>1</sup>.

The true idea is to bring all within the salutary influence of the school, and to drive none out ; but cases sometimes occur in which it becomes necessary for the board to protect the rights of the many by excluding a scholar whose presence and example are a constant menace to the successful progress of the school. Ia. (38).

*The teacher may suspend.*—Accordingly there is vested in the teacher the right to suspend<sup>2</sup>, and in the trustees the right to expel pupils from school.

Judge Vincent ruled that, though the authority to suspend or expel pupils from school is vested in the board of directors, the teacher has the right to exclude a refractory pupil temporarily from school. He said :

We have long held the opinion that the right to exclude a pupil temporarily from school was, in the absence of law to the contrary, inherent in the teacher's office, and that the exercise of this right under some circumstances is a necessity.—*Nat. Teacher*, July, 1874.

This view is generally held. Ia. (38), Neb. (37), R. I. (349), Tenn. (15), W. Va. (36), etc.

If the offender is incorrigible, suspension or expulsion is the only adequate remedy. In general, no doubt, the teacher should report a case of that kind to the proper board for its action in the

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<sup>1</sup> 114, 421.

<sup>2</sup> 11, 106, 108, 149, 154, 171, 174, 295, 379, 380, 381, 395 a, 401, 411, 419, 421, 436.

first instance, if no delay will necessarily result from that course prejudicial to the best interests of the school. But the conduct of the recusant pupil may be such that his presence in the school for a day or an hour may be disastrous to the discipline of the school, and even to the morals of the other pupils. In such a case it seems absolutely essential to the welfare of the school that the teacher should have the power to suspend the offender at once from the privileges of the school; and he must necessarily decide for himself whether the case requires that remedy<sup>1</sup>.

The teacher who suspends or expels a pupil is not liable on an implied contract to teach. There is no implied contract between teacher and pupil in our public schools that the former shall teach the latter. The only contract of the teacher is with the board of directors employing him<sup>2</sup>, and he is accountable to the board alone for his acts as teacher.

*The teacher can not expel.* Should he assume to do so he would be liable for damages.—*Cooley on Torts*, 288.

A Vt. decision held that the teacher might expel, and that if he erred in good faith in the discharge of his duty he was not liable to action<sup>3</sup>. But in Mass., when the teacher suspended a pupil for refusing to take a whipping, and the trustees had not acted upon the case, the parent could not maintain a suit for damages for expulsion without first applying to the trustees to see if they sustained the teacher, as the child had not been expelled<sup>4</sup>.

In some States power is given to the teacher by statute to suspend for a limited time. N. C. (31) makes the limit for the current term; N. D. (62) makes the limit 5 days. Fla. (24) directs teachers to suspend pupils for 10 days for gross immorality, misconduct, or persistent violations. Ia. (38) says the teacher may suspend *and fix the time*, notice being given to the board.

In New York it has been ruled otherwise.

In 1881, the principal of the Cattaraugus union school suspended Homer Crandall for two weeks under a by-law of the

1 436.

2 60.

3 411.

4 174.

board authorizing the principal to suspend a pupil who is guilty of flagrant misconduct, or those whose example is positively injurious, or whose reformation after repeated admonition appears to be hopeless. The court of sessions ruled that the board could not delegate to a teacher the power of suspension or expulsion; and that a boy could not be expelled without notice to appear before the board, with opportunity to defend himself.—*S. B.* vii. 116.

In most States teachers may suspend, but must at once report the case to the trustees for review (*D.* 1725, 3678). *Ariz.* (26), *Id.* (26), *Ia.* (38), *Mont.* (45), *N. D.* (62), *Ohio* (85), *Ore.* (71), *Va.* (71).

*Id.* (15) and *Ky.* (49) require the teachers to report to the trustees without first taking action.

If the trustees do not sustain the suspension, *Ariz.* (26), *Id.* (26), and *N. J.* (26) permit an appeal to the county superintendent, whose action is final. *La.* (47) requires the case to be reported to the parish superintendent, whose decision is final.

*The trustees may expel* whenever the harm the pupil does to the school more than counterbalances the good he might be expected to get from it. See page 38.

This is provided for generally in statute law. *Ariz.* (25), *Cal.* (25), *Col.* (38), *Ks.* (41), *Mo.* (14), *Mont.* (38, 47), *Neb.* (37), *N. J.* (27), *Pa.* (140), *Tenn.* (9), *Va.* (43), etc.

Pupils should not be excluded for accidents or negligence<sup>1</sup>. To eject a boy from the room on account of profanity is not to be regarded as permanent expulsion from the school<sup>2</sup>.

*Sufficient cause* must be shown to warrant this action.

Some States leave it discretionary with the trustees to expel for such cause as may seem to them

<sup>1</sup> 60, 214 a,

<sup>2</sup> 21.

sufficient, without requiring them to name it<sup>1</sup>.

Thus Tenn. (9) and Va. (43) authorize the trustees to expel when the prosperity and efficiency of the schools make it necessary.

But more commonly the trustees must be able to defend their action by showing good reason for the expulsion.

Ohio (85) requires that before the pupil is expelled the parent must be notified and permitted to be heard.

**a. Immorality** shown within the school is sufficient cause<sup>2</sup>; and it has been held that a licentious child may be excluded even when no licentious acts have been committed within the school<sup>3</sup>.

Ariz. (25) makes habitual profanity and vulgarity good cause for expulsion, while Cal. (25) and N. J. (27) make them cause for suspension.

Ariz. (19) says "for misconduct".

**b. Insubordination**, or continued wilful disobedience, is named in most statutes and decisions<sup>4</sup>.

See Ariz. (25), Cal. (25), Col. (38), Ia. (38), Kan. (41), Neb. (37), N. J. (27), N. D. (62), Pa. (140), Wash. (30), etc.

The supreme court of Illinois has decided that school directors can expel pupils *only* for disobedient, refractory, or incorrigibly bad conduct, -after all other means have failed. Expulsion is not designed as a means of punishment<sup>5</sup>.

Judge Higbee, of the Fulton county (Ill.) circuit court, decided that there was but one cause for expulsion, and that is incorrigibly bad conduct.—*Chicago Legal News*, vii. 309.

In Ia. it was decided that trustees may not adopt a rule which will deprive a child of school privileges except as punishment for breach of discipline or an offence against good morals<sup>6</sup>.

<sup>1</sup> 170.

<sup>2</sup> 21, 46, 49, 433.

<sup>3</sup> 185.

<sup>4</sup> 153.

<sup>5</sup> 53. See also 52.

<sup>6</sup> 190.

**IF THE TRUSTEES REFUSE TO EXPEL** a persistently disobedient pupil, it has been held that the teacher may decline to continue the school and draw wages for the full term (D. 1725), or at least up to the time of giving up the school<sup>1</sup>.

For appeal from action of trustees, see page 197.

It is the duty of a trustee to aid a woman teacher, when appealed to, in reducing to subjection a vicious and disturbing pupil, and if necessary, to remove such a pupil from the school (D. 3678).

If trustees will not expel them, a teacher may refuse to instruct large boys who treat her disrespectfully and refuse proper obedience. "A female cannot be expected to control large boys by physical force" (D. 1725).

A boy expelled for impertinence should be readmitted if he apologizes (D. 1695). Compare page 203. Nor can he be required to apologize upon his knees (D. 1960).

By other decisions, pupils cannot be suspended for refusing to apologize to a teacher for declining to sit by a very hot stove as punishment, or for wearing the hair in a manner forbidden by the teacher but approved by the mother. See page 147.

In Ill. it has been held that the board may require a pupil to inform it of the name of another pupil guilty of a breach of the rules, and on his refusal may suspend him, but not for more than the rest of the school year<sup>2</sup>.

As to expulsion for absence or tardiness, see pages 149-154; for refusal to take certain studies, see pages 158-165; for refusal to come provided with text-books, see page 159; for refusal to take part in religious exercises, see pages 166 to 169.

**c. Damage to school property** is in some States legal cause for expulsion. See page 146.

In Mich. before a pupil may be suspended or expelled for this cause, the act must be shown to be wilful and malicious—not merely careless<sup>3</sup>.

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<sup>1</sup> 401, 419.

<sup>2</sup> 68 a.

<sup>3</sup> 60, 214 a.

**d. Infectious disease** is of course ample reason for exclusion from the school, not only of pupils already infected<sup>1</sup>, but of those likely to be infected from living in a house where such disease exists (D. 1687).—*S. B.* xiii. 94.

See Ariz. (24), Ia. (38), Ky. (49), Me. (20), Mo. (14), N. C. (39), Ore. (29, 74), R. I. (83), Utah, (17), Va. (68), Wash. (29), W. Va. (37), etc. For New York, see Rev. Statutes, 1104, 25, 26; chap. 438, laws of 1860; chap. 25, laws of 1893.

**e. Unvaccinated children** may be excluded by the laws of most States<sup>2</sup>. See page 42.

In Mass., children who present a certificate signed by a regular practising physician that they are unfit subjects for vaccination may be admitted to the school without vaccination.—*Chap. 515, laws of 1894.* Va. (69) permits the law on this subject to be suspended.

In Pa. (69) teachers are required to refuse admission to children except on a certificate signed by a physician setting forth that such child has been successfully vaccinated, or has previously had small-pox.

**f. Colored children** (if of African descent, W. Va. [42] ) may be excluded in many States from schools attended by white children<sup>3</sup>. See page 38.

See Ark. (50), Fla. (50), Ga. (17), N. C. (13), Tenn. (23), Tex. (8), Va. (67), W. Va. (42).

In other States no discrimination is permitted<sup>4</sup>.

See N. J. (28), Pa. (152).

In Wy. (27) separate schools may be established for colored children where there are 15 of them.

<sup>1</sup> 108, 154, 179, 185, 199, 420, 421.      <sup>2</sup> 13 a.

<sup>3</sup> 11, 55 a, 76 a, 128 a, 132, 286 a, 302 a, 325, 332 a, 334 a.

<sup>4</sup> 3, 11, 13, 106 a, 110a, 110 b, 112 a, 202, 253, 268 a, 268 b, 315, 332, 361.



SIMILAR DISCRIMINATIONS are made against the Chinese in Cal. (23), and against the Indians in Cal. (24) and in N. Y. (vii. 37).

**g. Incapacity would seldom be a sufficient cause.**

A child was excluded from the school by a teacher, with the trustee's approval, upon the alleged ground that he was idiotic, lacked capacity for education, and was unable to care for himself. Evidence offered before the school commissioner did not sustain the charges, but rather refuted them.

I suppose the true rule touching such a case is that the child should be permitted to attend the school unless his presence is obnoxious to others, and unless he is so weak-minded as to be incapable of caring for himself and receiving the elements of an education. The school ought to help this boy if it can do so without detriment to the interests of other pupils. Not the mere pleasure or convenience of the teacher is to be considered, but the efficiency and success of the school. Although he may be the occasion of some annoyance, and of a little unusual care and attention, he should be permitted to continue in the school unless his presence there will injure it (D. 3891).

*Expulsion is only from school.*—It is not in the line of duty for trustees to refuse a person expelled from a school the quiet enjoyment of an exhibition held by a literary society of a school in a school-building. In charging the jury in such a case, the judge remarked :

To say that a student expelled from a school for disobedience to some municipal regulation should be excluded from attending a prayer meeting or public lecture in the schoolhouse or college premises for all time to come, without any evidences of improper conduct or suspicion of improper purposes, would be an exercise of tyranny over his private rights not vested in the trustees, directors, or professors of our educational institutions<sup>1</sup>.

*How to enforce expulsion.*—If a pupil who has been suspended or expelled refuses to leave the building, the teacher or trustee may at once enter a complaint before any justice of the peace or city magistrate under the provisions referred to on page 172.

If any scholar, after notice, shall attend or visit a school which he has no right to attend, or shall interrupt or disturb the same, he shall be fined for the first offence \$5, and for any subsequent offence \$10, or be imprisoned not exceeding 30 days. N. H. (30).

So Ariz. (36; Cal. (40); Fla. (31); Md. (22); Mont. (61); Mo. (61); Nev. (22); N. C. (37); N. D. (69); Ore. (42); R. I. (108, 284); S. D. (34); W. Va. (39, 40).

*How long expulsion should continue* when a punishment for bad conduct has been a subject of controversy.

**a. The usual view** is that the expulsion should continue till repentance is shown.

ONE NEW YORK DECISION.—On April 8, 1874, L. H. Hanchett was suspended from the union school at Phoenix, N. Y., “for disrespectful conduct and language towards his teacher,” and the board refused to restore him until he should make apology. He refused to make such apology, on the ground that he had been unjustly dealt with in reference to a certain examination, and more than a year afterwards he applied to the State superintendent to be readmitted to the school without apology. The Superintendent’s decision reads as follows :

The language of the appellant to his teacher was such as no provocation would ever justify a gentleman in using toward a lady, as the teacher is; and the appellant’s own sense of self-respect and of what under the circumstances was due from him to his teacher should have led him to make the apology of his own free-will, without a demand for it from the board in behalf of the offended party. *But it appears that the appellant persistently refuses to do not only the teacher but himself justice in the matter*, for in view of the offence committed, making at least the reparation of an apology for the

language used, was, in my opinion, an act of justice even to himself, which he should have been not only willing but eager to perform. But in view of the fact that the appellant has already been kept from the privileges of the school for more than a year, and that such a suspension may be well deemed a sufficient punishment for the offence, committed as it probably was under unusual excitement and by a scholar of uniform previous good conduct, the appeal is, I must admit with considerable reluctance, sustained, and the respondents are directed to restore the appellant to the privileges of the school, on presenting himself for that purpose.—*Letter book, State Dep't, July 21, 1875.*

The principle here affirmed is that when the suspension has been continued long enough to be a sufficient punishment, the scholar must be received without acknowledgment of the wrong committed. But New York has had only one administration capable of rendering such a decision, and is not likely to have another. The usual ruling is given in the decisions which follow.

THREE OTHER NEW YORK DECISIONS.—(1) Henry Merrill, 17 years old, a pupil in the school at Lyons, assaulted John H. Patterson, acting principal of the school, and on the next day when school was in session charged him with lying and offered to fight him. When called before the board he admitted this, and justified his conduct, whereupon he was suspended, and his guardian appealed.

There can be no doubt of the power of local school authorities to suspend pupils from school privileges when their conduct is so wilfully insubordinate as to be destructive of the good order and efficiency of the schools. There are undoubtedly some cases which would justify an entire and perpetual taking away of school privileges. There are many more cases which call for a temporary taking away of such privileges, to continue until such time as the pupil gives satisfactory evidence of his willingness to submit himself to the discipline of the school \* \* \* This Department will not be inclined to overrule the action of the board in this case, at least before it is shown that it refuses

to readmit Merrill to the privileges of the school *after he has given abundant proof of regret for his misconduct, and readiness to submit unreservedly to the discipline of the school* (D. 3596).

(2) The action of a teacher and of a board of education in suspending a pupil will be upheld when it is shown that the pupil was disorderly and refused to obey the teacher and properly deport himself in the school. *Until it has been made to appear by proof that the pupil has been subjugated and is ready to properly conduct himself, he should not be admitted to the privileges of the school* (D. 3689).

(3) Appeal from the refusal of the trustees of a district to receive a pupil in the school who had been expelled for a breach of discipline. The boy has been denied the privileges for several weeks. The act for which the punishment was inflicted was evidently the result of momentary impulse, *and for which he is now contrite*. Nothing is shown against him but this one act. *Held*, that he should be admitted to the school (D. 3861).

IN OTHER STATES.—In Ill., when a pupil has been suspended, and uses gross vulgarity and profanity to the board on being called before it, he forfeits his right if any to reinstatement *until reparation is tendered*<sup>1</sup>.

In Me. (20) the trustees may expel any obstinately disobedient and disorderly scholar, and restore him *on suitable evidence of his repentance and amendment*.

In R. I. the principle involved has been clearly stated. On March 9, 1870, a scholar named Fuller resisted the authority of J. I. Davenport, principal of the Woonsocket high school. The teacher suspended him. The committee justified the teacher in the suspension, but voted to restore the boy unconditionally. The teacher appealed from the committee to the State commissioner of public schools, who rendered the following decision :

In the case of Master Fuller, no punishment has yet been inflicted for the offence committed, save that indirectly following the publicity of suspension from school ; and so far as the vote of the committee extends, there has been no requirement made which secures to the governing power of the

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<sup>1</sup> 68 a.

school a recognition of the violation of law, or a proper pledge of future obedience. If the scholar so disobeying be allowed to return to the school-room without such acknowledgment of wrong, or a promise of future obedience, the discipline of the school would instantly be degraded to the position occupied by the offender, and to a state of discord in harmony with the offence. On the other hand, the recognition, on the part of the offender, of the offence committed, as well as an acknowledgment of the authority of the teacher to regulate the internal police of the school, with a pledge of future obedience, not only honors proper and legitimate government and establishes it upon a proper basis, but it also honors the instinctive regard for truth, virtue, and correct deportment on the part of those who may have fallen into a fault, perhaps hastily and thoughtlessly.

*Upon this view of the case stands the whole question of good government and discipline at home or at school.* If the parent or teacher be at once deprived of the power of judging of the value of an offence, from its intrinsic character and its attendant circumstances, and also of the power to administer merited punishment for offences, as well as of the granting of pardon and forgiveness on the ground of true reformation, the whole foundation and superstructure of disciplinary government are thrown down, and misrule must and will prevail.

The wise and judicious teacher is jealous of his true rights and prerogatives, and is the best judge as to the influences of the school-room which help on the one hand to maintain, and on the other to subvert, good government. The look and the gesture may mean more of good or ill than the word or the act; and it would not tend to the welfare of our schools, or to the support and dignity of home or school government, to subject every act of the teacher or the parent to the severe tests of legal scrutiny, or the partisan attacks of interested counsellors. In view, therefore, of the general application of the vote passed by the school committee of Woonsocket, by which said committee decided to admit Master Fuller to regular standing in the high school, and in view of its specific application to the school of which he is a member, as well as its practical influence upon all the schools of the town, if carried out, I am forced to the conclusion that it would not be for the welfare of the schools to allow this vote to be carried into effect, and I therefore declare said vote to be null and void.—*Manual 1873*, pp. 145, 146.

**b. In some States** the statute limits the period of expulsion to the current term.

Among these are Kan. (41), Neb. (37), N. D. (43), Ohio (85), S. D. (26), Utah (9).

*No damages for expulsion in good faith.*—Trustees are not liable for damages for expelling a pupil,

even though the rule be unwarrantably severe, provided they act in good faith<sup>1</sup>.

To recover damages, the person must first appeal to school officers who have the power to reinstate him, if there be such<sup>2</sup>, and prove the action of the officers excluding him to have been wanton and malicious<sup>3</sup>.

In Mo., it was decided that when trustees had expelled a pupil for attending a social evening party in violation of a rule of the school, no suit for damages could be sustained. (See page 178.) The court said :

Whether the rule was a wise one or not, the directors and teachers are not liable to an action for damages for enforcing it, even to the expulsion of the pupil who violates it. While this court might, on *mandamus* to compel the board and teacher to admit a pupil thus expelled, review the action of the board and pass upon the unreasonableness of the rule—which we do not, however, decide here—yet the doctrine that the courts can do this is very different from that which would hold the directors liable in an action for damages for enforcing a rule honestly adopted for the maintenance of discipline in the school. That such an action is not maintainable is fully established<sup>4</sup>.

Judges Norton, Napton, Hough, and Sherwood concurred in the following view :

It certainly could not have been the design of the legislature to take from the parent the control of his child while not at school, and invest it in a board of directors or teacher of a school. If they can prescribe a rule which denies to the parent the right to allow his child to attend a social gathering, except upon pain of expulsion from a school which the law gives him a right to attend, may they not prescribe a rule which would forbid the parent from allowing the child to attend a particular church, or any church at all, and thus step *in loco parentis* and supersede entirely parental authority? The directors, in prescribing the rule that scholars who attended a social party should be expelled from school, went beyond their power, and invaded the right of the parent to govern the conduct of his child, when solely under his charge. My concurrence in the opinion of the court is based upon the sole ground that malice, oppression, and wilfulness on the part of the defendants are not sufficiently charged in the petition<sup>5</sup>.

Whatever damages are recovered are for the child, and not for the parent<sup>6</sup>.

<sup>1</sup> 411.      <sup>2</sup> 171 a.      <sup>3</sup> 54, 65.

<sup>4</sup> 65, 74, 77, 113, 153, 154, 171, 199, 232, 295, 332, 340, 355 b, 358. But see 10, 23, 227, 257, 273, 274, 298, 300 a, 300 b, 335.      <sup>5</sup> 232.      <sup>6</sup> 295. But see 335.

*Another point of view.*—We have treated the law of expulsion as laid down in the statute and established by decisions. It will be observed that it is based upon the principle that to attend school is a privilege, to be debarred from which is a punishment. But how is this to be reconciled with the principle of compulsory education (see page 43)? Here we have the law with one hand compelling children against their will to enter the school, and with the other making exclusion the penalty for misbehavior.

The most serious punishment which can be inflicted by a master is expulsion from the school. It is necessary for the master to have such a power as a last resource in the case of incorrigible misconduct, and also for the protection of his other charges from the evil influence of an unusually vicious pupil. *Expulsion however cannot be inflicted by the master of a board [public] school; for the attendance of a child at such a school is compulsory by law,* and, unless the child be guilty of an offence justifying his being sent to a reformatory or industrial school, his expulsion from a board school would imply, most probably, the entire cessation of his education. Also when parents are compelled to send their children to school under the provisions of the Elementary Education Acts, they are only excused from sending them to a board school for certain reasons, none of which is that the child has been expelled; therefore, if a child could be expelled, we should have the father in the awkward position of being liable to a penalty for not causing his child to attend a school, to which the master of that school refused to admit the child.—*Disney's Law relating to Schoolmasters*, pages 89, 90.

*The teacher's dilemma.*—There is no effect to law unless there be a penalty for its infraction. The final penalty in school has always been either cor-

poral punishment or expulsion. But the former is discouraged, if not forbidden, and the latter is inconsistent with compulsory education.

Expulsion is the last resort; and if the pupil persists and the teacher is not strong enough to compel him to leave the school, the punishment would fail if she could not call some one to her aid. But in case of final punishment, if the teacher cannot punish, she still has the final resort of suspension or expulsion<sup>1</sup>.

On Oct. 12, 1887, while John H. Clark, superintendent of schools in Flushing, was speaking to the pupils in one of the rooms on a matter of discipline, Anthony Brown, 17 years old, rose and looked round at the other pupils in a contemptuous manner. Mr. Clark took hold of him, and a trial of strength ensued, so severe that the janitor had to interfere in behalf of the teacher. The boy apologized before the school and promised better behavior. The next day his class teacher reported that he was continuously troublesome, and sent him to the principal. Mr. Clark remonstrated with the pupil, who grew insolent and abusive and dared the superintendent to put him out of the school. Mr. Clark suspended him and directed him to leave the building. The next morning the boy appeared again, and was a leader in scattering paper caps upon the floor, and in exploding them. Thereupon the boy was removed from school, and the action was sustained by the board of education. Held that the public had no right to call upon teachers to test their physical powers with those of young men already grown to man's estate (D. 3689).

This case was also tried in court, and a similar decision was rendered by Judge Brown.

The teacher may not punish a pupil for refusing to do what the parent has requested he be excused from doing, even when such refusal justifies the board in suspending or expelling<sup>2</sup>.

✓ *Governor Dix* believed that corporal punishment was preferable to expulsion. He said:

A teacher, must for the purpose of maintaining proper order

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<sup>1</sup> 401.

<sup>2</sup> 80, 82, 114.



and discipline in his school, have a right to employ such means of correction as he may deem necessary to the accomplishment of the object. For any unnecessary or excessive severity he would be answerable for damages in a suit of law to the person aggrieved.

A teacher ought not, I think, to dismiss a scholar from school. From the nature of the common school system, teachers are, as a general rule, bound to receive and instruct all children sent to them. If a scholar is so refractory that he cannot be managed, and his dismissal becomes necessary to the preservation of order, I think the teacher should lay the matter before the trustees for their direction; but not until the ordinary means of correction had been fully tried and found unavailing.—*Decisions*, page 145.

✓ *Better chastise than expel.*—We believe this to be sound doctrine. While corporal punishment should be seldom necessary, the pupils should not know that the power to inflict is taken from the teacher. Impertinence, for instance, always the utterance of a weak and cowardly nature, can be easily checked only by the certainty of immediate and physically painful punishment. Deprivation of recess or extra tasks often develop it into confirmed insolence, and expulsion follows. The boy whom one tingling blow of the ferule might have saved, grows up in low-bred ignorance. Instances like this we have known; and we do not believe that boards of education should take away this right of the teacher, or that teachers themselves should ostentatiously renounce it. If the teacher has determined to maintain good order without the use of the rod, it does him honor, and we wish him success. But let him keep his resolution to himself. There are pupils who fear only what

hurts them; and they may bring about a crisis when only the rod, and that vigorously applied, will maintain order in the school-room.

But we have shown (pages 187 to 194) that modern sentiment is growing so strongly against corporal punishment that it is a dangerous power to exercise, even where it is permitted. Besides, it is asking a good deal of young teachers, especially of young women, to control unruly boys by physical force. Evidently as a last resort some new punishment must be substituted for persistent bad conduct in school.

*The truant school* is the solution of the difficulty. Every system of schools should have such a school, not penal but reformatory, to which refractory pupils may be sent. Without such schools no compulsory law can be effective.

As to the right of the State to send children to such a school<sup>1</sup>, see *Cooley's Constitutional Limitations*, 299.

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<sup>1</sup> 37, 333, 435, 442.

## CHAPTER XII

### IN LOCO PARENTIS

We come now to a relation of the teacher toward his pupil too broad and general to be defined by statute law, but referred to in common law under the expression *in loco parentis*—in place of the parent.

The master is *in loco parentis*, and has such portion of the powers of the parent committed to his charge, viz.: that of restraint and coercion, as may be necessary to answer the purposes for which he is employed<sup>1</sup>.—*Blackstone's Commentaries*, i. 453; *Bishop's Common Law*, 7th ed., § 882; *Schouler's Domestic Relations*, 4th ed., § 244; *Addison on Torts*, Wood's ed., § 840. Ark. (69), Pa. (137).

For previous reference to this relation, see pages 143, 175, 177, 181, 206.

In case of a private school, the parent may withdraw the child at any time, and thus terminate the teacher's delegated right<sup>2</sup>.

There is a tendency to regard this phrase as a legal fiction, and to consider it the sole duty of the teacher to instruct in the branches laid down in the course of study, relieving the teacher at once of the responsibility and of the right to control the pupils in any thing outside of their studies. The attendance and the character of the pupils and even their conduct while in school would be no concern to

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<sup>1</sup> 2, 189, 358, 436.

<sup>2</sup> 455 b, 455 c.

the teacher. If the child failed to comply with the prescribed regulations, the remedy would be simply to expel him. This view, emphatically set forth in a prominent magazine\*, we believe no true teacher ever held.

The old Massachusetts law has the true ring of sound educational principle :

It shall be the duty of the president, professors, and tutors of the University at Cambridge and of the several colleges, of all preceptors and teachers of academies, and of all other instructors of youth, to exert their best endeavors to impress on the minds of children and youth committed to their care and instruction the principles of piety and justice, and a sacred regard to truth ; love of their country, humanity, and universal benevolence ; sobriety, industry, and frugality ; chastity, moderation, and temperance ; and those other virtues which are the ornament of human society and the basis upon which a republican constitution is founded ; and it shall be the duty of such instructors to endeavor to lead their pupils, as their ages and capacities will admit, into a clear understanding of the tendency of the above-mentioned virtues to preserve and perfect a republican constitution, and secure the blessings of liberty, as well as to promote their future happiness, and also to point out to them the evil tendency of the opposite views.—*38th Report*, p. 147.

*Dignity of the teacher's office.*—The teacher should feel that he is not a hired servant of the individual inhabitants of the district, to be criticised and thwarted, and at the best but tolerated. He has legal rights, and no inconsiderable legal authority. He should deserve and demand the respect due the dignity of his office. “ Pull off thy hat, Sire,” said

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\* The *National Teacher's Monthly*, for June, 1875.

the schoolmaster to Charles II., "for if my scholars discover that the king is above me in authority here, they will soon cease to respect me."

*Not scholars alone, but men and women.*—Our public schools were created to make, not scholars simply, but men and women. When education is confined to the imparting of certain branches of knowledge, it will have no claim to be maintained at public expense. Penmanship and physics taught where only the intellect is trained, are as likely to be the weapons of the forger and the burglar as they are to be the support of law-abiding citizens. Healthy care of the mind and body, a right purpose in life, sound and intelligent morality—these are the lessons the public school should instil; beside them, arithmetic and grammar and geography are incidental in importance. They must first be exemplified in the teacher's life, and thus become a continual lesson to every pupil. But this is not enough. The true teacher will know his pupils as individuals, and will feel in each an interest which only the term parental describes.

*Friendly hints.*—He sees among his pupils a slovenly boy. Judiciously, quietly, here a little and there a little, he conveys hints that bear fruit in clean hands, polished shoes, and brushed clothes. He notices a girl too showily dressed, and, choosing his time, appeals to her kindness not to make her

less wealthy neighbors uncomfortable. He observes a pale student who never goes out at recess, invites him to a walk, and impresses upon him the futility of cultivating the mind to the neglect of the body. He overhears the coarse expressions of a good-natured, stable-bred young fellow, and finds occasion to point out to him that the only sure indication of culture is the language one uses. He finds untruth a prevalent vice. Not satisfied with general instruction, exhortation, and reproof, he seeks out the individuals in whom it is most alarming, and impresses upon each that the lie stamps the utterer at once a coward and a fool. He sees in a pale face, and reserved, absent-minded manners, indications of a most common and deadly crime. Cautiously, kindly, but steadfastly, he labors to save a life from ruin and a soul from perdition. These, and such as these, are the efforts which task the conscientious teacher. He dishonors his profession who neglects them.

*A high ideal.*—We are told that this is a great deal to require; that it demands of the teacher a combination of talents with common-sense which would make him eminent in any profession. True enough: and why not? The time has been when he became a teacher who lacked the brains to succeed at anything else. May the time come when he shall become something else who lacks the brains to succeed as a teacher. Away with the narrow-

minded notion that the teacher need only impart square feet of problems and linear yards of paradigms. No other profession exacts at once such thoroughness, such judgment, such insight into human nature, such sincere politeness, and such honest manhood and womanhood.

*A personal tribute.*—The compiler of this book has been under the instruction of many teachers, in ungraded, grammar, and high schools, in the academy, in the college, and in the professional school. Among these teachers were learned men and noble men, whom he respects and reveres. But of them all, he recognizes but one as having exacted upon him a marked influence. Nor can he better close these articles than by quoting here a grateful reference which he made years ago to the truest teacher he ever knew—Rev. William Hutchison, late principal of Norwich (Conn.) Free Academy :

I can imagine no life more unsatisfactory than that of an incapable teacher. Bullied by the large boys ; himself a bully to the smaller ; jeered to his face ; insulted behind his back ; his school a bedlam ; his recitations a farce ; hired only because cheap—he draws his grudgingly paid stipend in the delusion that he is respectable because a professional man.

Such wert not thou, O Zeus—name fortuitously bestowed, but applied in no disrespectful spirit, and cherished among the healthiest recollections of the past. Happy were we who sat at thy feet. Happy in sound and accurate instruction ; happy in the instilment of a love for thorough scholarship ; happy in the example and fellowship of one who was in every way a *man*. We were careless and wayward ; far less than we ought did we profit

by thy teachings ; but the most indifferent of us failed not to catch some warmth from thy glowing countenance, and the most earnest gladly acknowledged thy quickening influence. If it be noble to give one's every energy to his calling ; to wrestle with bodily infirmity that one's duty be faithfully performed ; to persevere amidst perverseness and ingratitude in conscientious attention to the minds and characters of one's pupils—then wert thou a nobleman. And if it be a satisfaction to have wrought in all committed to thy charge a lasting impression of the dignity of Christian manhood, then hath thy life's labor been not unrewarded.—*Yale Literary Magazine*, June, 1869.



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3551 to 3657,	report for 1888.
3659 “ 3737,	“ “ 1889.
3739 “ 3824,	“ “ 1890.
3826 “ 3913,	“ “ 1891.
3915 “ 4021,	“ “ 1892.
4022 “ 4128,	“ “ 1893.
4163½ “ 4204,	“ “ 1894
4209 “ 4311,	“ “ 1895.

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## REFERENCES TO STATUTE LAWS

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- Alabama. 1895. 8:255. Pp. 99, 123, 125, 180
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- Kansas. 1895. 8:161. Pp. 95, 104, 105, 115, 145, 149, 197, 198, 205
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- Minnesota. 1895. 8:111. Pp. 101, 105, 106, 110, 112, 115, 116, 118, 136, 141, 155, 159, 161
- Mississippi. 1892. 8:48.
- Missouri. 1893. 8:137. Pp. 106, 132, 139, 150, 161, 168, 174, 177, 197, 200, 202, 206
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- Nevada. 1893. 8:40; Am. 1895, 8:12. Pp. 95, 115, 125, 155, 177, 202
- New Hampshire. 1895. 24:43. Pp. 159, 202
- New Jersey. 1895. 8:226. Pp. 92, 95, 103, 108, 109, 110, 115, 116, 123, 129, 146, 161, 169, 174, 180, 197, 198, 200
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- Ohio. 1893. 8:192; Am. 1894, 8:17. Pp. 99, 100, 103, 106, 115, 116, 138, 161, 174, 175, 197, 198, 205
- Oregon. 1893. 8:140. Pp. 95, 99, 100, 103, 115, 116, 117, 145, 146, 149, 151, 153, 155, 156, 158, 159, 174, 197, 200, 202
- Pennsylvania. 1896. 16:401. Pp. 95, 96, 100, 102, 103, 105, 108, 109, 115, 116, 126, 127, 129, 145, 161, 180, 197, 198, 200
- Rhode Island. 1896. 12:451. Pp. 20, 95, 96, 97, 99, 103, 104, 106, 108, 110, 125, 129, 131, 136, 138, 145, 157, 161, 168, 169, 172, 193, 195, 200, 202, 204
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- Washington. 1893. 8:162; Am. 1895, 8:29. Pp. 92, 95, 100, 103,  
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PART III  
UNIFORM EXAMINATION  
QUESTIONS



## UNIFORM EXAMINATION QUESTIONS

from the beginning to and including those for March, 1896, when School Law ceased to be exclusively a first-grade subject, with answers as officially given, corrections [in brackets] to date, and references to pages of this manual.

*SEPTEMBER 3, 1887*

1. State three ways in which a teacher may be licensed.

By State superintendent of public instruction ; by school commissioners, or other officers with similar functions ; by obtaining a diploma from a State normal school. 33, 89.

2. Mention the legal holidays in this State.

January 1, February 22, May 30, July 4, first Monday in September, December 25, any general election day in this State, every Saturday afternoon, and Thanksgiving day. [Add Feb. 12. It cannot be said that Saturday afternoon is a legal holiday, more than Saturday morning. To Thanksgiving day should be added Fast days]. 10, 116.

3. Is a teacher authorized to hold religious exercises during school hours ?

A teacher has no authority to insist upon religious exercises of any kind. 44, 166.

4. Has the teacher authority to expel a pupil ?  
To suspend ?

No. Yes ; the teacher may suspend for the day, or long enough for consultation with trustees. 37, 195.

5. What legal remedy has a teacher against any

person who creates a wilful disturbance during school hours ?

He may enter complaint against such offender before any justice of the peace of the county, or the mayor or any alderman, recorder, or other magistrate of the city, wherein the offence was committed. 172.

*OCTOBER 1, 1887*

6. May a district change from one to three trustees ?

Yes. 28.

7. What authority has a teacher to inflict corporal punishment ?

The same authority that a parent has. [But it should be noted that decisions against the teacher when matter is taken into the courts are becoming very common]. 180-194.

8. What does the law require of a teacher before he can make a legal contract to teach a common school ?

It requires him to have an unexpired license. 33, 105.

9. In whom is the authority vested to regulate the attendance of pupils, the course of study, and the selection of text-books ?

In trustees and board of education. 37, 149; 43, 155 ; 44, 156. [But in districts, text-books are selected by the school meeting.] 44.

10. How frequently does the law provide that the compensation of teachers shall become due and payable ?

As often as the end of each calendar month of the term of employment. 34, 119.

NOVEMBER 5, 1887

11. What vacancies in office may the trustee of a school district fill by appointment?

District clerk ; district librarian ; and district collector. 30.

12. What authority has a teacher over pupils on the way to and from school?

None. 45, 176.

13. Upon what basis is the public school fund apportioned (a) to the counties of the State? (b) To the several school districts of a county?

(a) The number of schools taught by duly licensed teachers for the prescribed term of 28 weeks, and upon the population as shown by the last census. [Now, \$100 for every qualified teacher who has been employed 160 days ; then rest according to population.] 10. (b) The number of teachers employed for at least 28 weeks in the preceding school year, the number of children of school age residing in the district on the 30th day of June, preceding, and the average attendance of resident pupils at the district school during the preceding school year. [Now, according to aggregate days of attendance.] 11. See No. 62.

14. What relatives is a trustee prohibited from hiring as teachers?

Relatives within the second [now of any] degree, either by blood or by marriage, viz.: father, mother, grandfather, grandmother, son, daughter, grandson, granddaughter, brother, or sister 34, 108.

15. What power has the trustee of a school district to purchase globes, maps, and other school apparatus for the use of the school without the vote of the district?

He has power to expend for such purpose sums not to exceed \$15 [now \$25] in any one school year. 48.

DECEMBER 3, 1887

16. (a) What notice to voters is necessary in calling a special school meeting? (b) What matters can be legally acted upon at such meeting?

(a) A notice specifying when and for what purpose the meeting is called, to be given to each voter personally, or to be left at his place of residence if he cannot be found, at least five days before the time designated for the meeting; (b) only those fully set forth in the notice. 20.

17. (a) How may a school district change from three trustees to one? (b) From one trustee to three?

(a) By resolution adopted by a majority vote at an annual school meeting; (b) by a resolution adopted by a two-third vote at an annual school meeting. 28, 29. See No. 6.

18. Has a trustee, or a board of trustees, the power to allow the use of the schoolhouse for religious meetings against the wish of the district?

A sole trustee has that power, and a board of trustees has that power if no one of its members dissents. [But this may not be done if there is any protest in the district.] 32, 169.

19. How many days must elapse between the voting of a tax by a district meeting and the delivery of the tax-list and warrant to the collector?

30 days. 26.

20. Can a teacher make up lost time by teaching on a holiday?

He can if he have the consent of the trustees thereto; otherwise he cannot. [Now forbidden. See Nos. 11, 140.] 116.



*MARCH 14, 1888*

21. Who is at the head of the school affairs of the State? Of the county? Of the school district? Of the school room?

State superintendent. 9. School commissioner. 14. Trustee. 28. Teacher. 170.

22. State briefly the provisions of the law of 1887 relative to the employment and pay of teachers.

The trustee must give the teacher a written minute of the terms agreed on, signed by the trustee; the pay of teacher shall be due and payable at least as often as at the end of each calendar month. 34, 113, 119.

23. What is the salary of a school commissioner? How may it be increased?

The salary is \$1,000, with \$200 audited by supervisors for expense By board of supervisors. 14.

24. State within what degree of relationship is a trustee prohibited from employing a teacher, except by vote of a district meeting.

Second. [Now he may not hire within any degree.] See No. 14.

25. State the provisions of the new law in respect to the school out-buildings.

See the law in the school register. 47.

*MAY 5, 1888*

26. How can a common school district change from three trustees to one?

By adopting, at an annual meeting, by a majority vote, a resolution that the district change from three trustees to one, and afterward dispensing with the election of a trustee until the trus-

tees then in office vacate their office by reason of expiration of term for which they were elected, or otherwise. 28, 29. See No. 17.

27. (a) What officers apportion the public moneys among the school districts? (b) Upon what officer does the trustee draw orders to pay teachers that money?

(a) The school commissioners. 11. (b) The supervisor. 14.

28. For what officers may women vote in this State?

School district officers.  
14, 21.

29. For what term of office is a sole trustee elected? The several trustees, when a district changes from one trustee to three? Each of the three trustees after a first election of three trustees by a district?

One year. One for 1 year, one for 2 years, and one for 3 years. 3 years. 22.

30. What is the ruling of the department of public instruction in regard to the teacher's authority over pupils on the way to and from school?

The teacher has no legal control over the pupil before reaching the school premises, or after leaving them upon dismissal. 45, 167. See No. 12.

*AUGUST 15, 1888*

31. How may a trustee be legally authorized to employ a teacher who is within the second degree of relationship?

By a two-thirds vote of an annual meeting or of special meeting called for that purpose. 34. See Nos. 14, 24.

32. In addition to being a resident of the district and of full age, what are the qualifications, any one of which entitles a person to vote at district meeting?

First,—being entitled to hold real estate under the laws of New York and either owing or renting real estate subject to taxation in the district.

Second,—being a citizen and assessed upon the last completed assessment roll of the town, for personal property in a sum not less than \$50.

Third,—being a citizen and the parent or guardian of a child of school age who has attended the district school at least 8 weeks during the preceding school year and who still resides with such parent or guardian. [For present requirements see page 20.]

33. Where does the law direct that the boundaries of school districts shall be recorded?

In the office of the town clerk of the town or towns in which the district is situated. 13, 17.

34. Who are authorized to fix the rate of tuition for non-resident pupils?

Trustees and boards of education. 38, 55, 63.

35. What schools only are exempt from the provisions of the law requiring schools to be closed during the session of a teachers' institute?

The schools of incorporated cities. [Now, and of union free school districts with population exceeding 5,000.] 17, 116.

36. What officer has power to remove a trustee or member of a board of education from office, for cause?

The superintendent of public instruction. [Now, a board of education also has power to remove its own members.] 29, 64.

37. Who is legally responsible for the safe keeping of the school register?

The teacher. 49, 122.

38. What officer has authority to create a new school district?

The school commissioner. 17.

39. When is the beginning and when is the close of the school year?

The school year begins August 21 and ends August 20. [Now, see pp. viii, 19.]

40. What is the time for holding the annual school meeting?

The last Tuesday in August and at 7:00 P. M. if no other hour has been fixed by the district. [Now, the first Tuesday in August.] 19.

*MARCH 13, 1889*

41. (a) Who is the superintendent of public instruction elect? (b) What is the length of his term of office? (c) When was he elected? (d) How was he elected?

(a) Andrew S. Draper. [Now (1896), Charles R. Skinner]. (b) 3 years. 9. (c) February 14, 1889. [February 8, 1895] 9. (d) By joint ballot of the senate and assembly. 9.

42. Give three causes for which a school commissioner may annul a teacher's certificate.

For immoral conduct, for lack of ability to govern and instruct a school, for lack of educational qualifications as shown by re-examination upon failure in the work of teaching, for fraud or collusion at examination, etc. [Now, only for immoral conduct.] 16, 101.

43. What is a joint school district?

A district that is situated in, *i. e.*, embraces part of,—two or more commissioner districts. 15.

44. Under the supervision of what school commissioner is the school in a joint school district?

Under the supervision of the school commissioner in whose district the schoolhouse is situated. 15.

45–6. (a) What is the least time that a public school must be taught each school year, to entitle it to share in the public school moneys? (b) What days upon which school is not actually taught may be taken as part of such time?

(a) 28 weeks. [Now 32]. 10. (b) Legal holidays occurring upon regular school days of said term, and time spent by the teacher in attendance upon a teachers' institute, not to exceed 3 weeks of said term. 10, 116. See Nos. 2, 20.

47. Who is responsible for the safe keeping of the school register during the term of school?

The teacher. 49, 122. See No. 37.

48. What defines and limits the business that may be brought before a special school meeting?

The regular call for the special meeting. 20. See No. 16.

49. How long a time must a teacher have taught, to be eligible to a certificate of the second grade? To one of the first grade?

To be eligible to a certificate of the second grade,—one term of at least 12 weeks. [Now 10 weeks.] 90. To one of the first grade,—at least 2 years. 91.

50. What is the regulation of the department of

public instruction in regard to the endorsing of teachers' certificates by school commissioners?

Commissioners' certificates of either the first grade or the second grade may be endorsed by other commissioners, and thus be made valid for their respective commissioner districts. [Now good throughout the State.] 90, 91.

*MARCH 5, 1890*

51. What is the minimum age required as a qualification for teachers in the State of New York?

16 years. 33, 108.

52. Mention three things required to be set forth in the memorandum of contract to be delivered by a trustee to a teacher employed by him.

The term of employment, the rate of compensation, and the times of payment. 114.

53. How many weeks each school year must a public school be taught in order to entitle it to share in the distribution of the public moneys?

32 weeks. 10.

54. The attendance of what pupils is rejected in computing the aggregate attendance upon which public money is apportioned?

Non-resident pupils, and resident pupils under 5 and over 21 years of age. 37.

55. What penalty is prescribed for the wilful violation of a contract by a teacher?

Revocation of certificate. 103, 124.

56. Where should school commissioners cause the boundaries of school districts to be recorded?

In the office of the town clerk of the town in which the district is situated. 17. See No. 33.

57-8. Is a trustee prohibited from employing as a teacher (*a*) his niece? (*b*) his wife's sister? Give reasons for your answers.

(*a*) No. A niece is not within the second degree of relationship. [Now, yes.] 34, 108. (*b*) Yes. A wife's sister is within the second degree of relationship, by affinity or marriage. [There is no longer any degree, but all relatives are excluded.] 34, 108. See Nos. 14, 24, 31.

59-60. By what official are appointments made to fill vacancies occurring in the office (*a*) of school commissioner? (*b*) of district trustee? (*c*) of district clerk? (*d*) of district collector?

(*a*) County judge. 14. (*b*) School commissioner. 29. See No. 72. (*c*) Trustees. 30. (*d*) Trustees. 30. See No. 11.

*AUGUST 20, 1890*

61. What remedy has a teacher from whom a certificate is unjustly withheld by a school commissioner, or whose certificate has been annulled by the same authority, without good cause?

The teacher may appeal from the decision of the school commissioner to the State superintendent of public instruction. 98, 104.

62. Upon what two bases are the public school moneys apportioned to the several school districts? What change in the law has recently been made in regard to the amount, or manner of apportioning, on one of these bases?

1. The number of teachers employed in the district for at

least 32 weeks during the school year. 2. The aggregate attendance of pupils of school age residing in the district. 10, 11.

Each teacher's quota is made \$100, without regard to the amount of money to be divided. 10. See No. 13.

63. By what authority may a pupil residing in one district be allowed to attend school in another? Who fixes the rate of tuition?

The permission of the trustee or board of education of the district whose school he desires to attend. The trustee fixes the rate of tuition. 38, 55. See No. 34.

64. What are the limits of school age as defined by the law of this State?

5 years and 21 years. See No. 54.

65. State the causes for which a school commissioner may annul a teacher's certificate.

For immoral character. For wilfully refusing or neglecting to comply with the provisions of the school law or regulations of superintendent of public instruction. For lack of competency to properly govern or instruct a school. For habitual conduct unbecoming a lady or a gentleman. See No. 42.

66. Give three duties of a school trustee.

Answers may vary. 28-50.

67. How may a schoolhouse unfit for school purposes be condemned?

By the written order of the school commissioner. 15.

68. To what amount has the school commissioner the right to order needed repairs upon a schoolhouse, when the district neglects or refuses to make such repairs.

\$200. 16.



69. By what several authorities may teachers be legally qualified to teach in the public schools in the State?

The State superintendent of public instruction. A school commissioner. Boards of education or their agents, when empowered by special act of the legislature. 33, 89.

70. How are school commissioners elected? For how long? When does the next general election of school commissioners occur? On what date will those then elected assume the duties of their office?

By vote of the people of their respective districts. For 3 years. Nov. 4, 1890. [Nov., 1896.] Jan. 1, 1891. [Jan. 1, 1897.] 14.

*MARCH 4, 1891*

71. What is meant by "district quota" in the apportionment of school money? What is its amount?

The amount of money apportioned to the several school districts by the State superintendent of public instruction, based upon the number of qualified teachers employed for 32 weeks of 5 school days each during the year. \$100. 10. See Nos. 13, 54, 62.

72. How is a vacancy filled in the office of trustee of a common school district?

By election in the district within 30 days, but after such time the school commissioner may appoint. 29. See No. 59.

73. What authority has a school commissioner in the matter of school furniture?

He may direct the trustee to make any alterations or repairs to school furniture, or when in his opinion any furniture is unfit for use and not worth repairing, or when sufficient furniture is

not provided he may direct that new furniture shall be provided as he may deem necessary, provided that the expense of such alterations, repairs, or additions to furniture shall not, in any one year, exceed the sum of \$100. 16.

74. What provision is made by law to prevent a trustee from giving a teacher an order on the collector when there are no funds in the hands of the collector sufficient to meet the same?

It is a misdemeanor. 46.

75. What is the shortest period of time for which a teacher may be employed, unless for the purpose of filling out an unexpired term of school?

10 weeks. 34, 114.

76. If a teacher is unjustly dismissed during the term of employment, what is his remedy?

An appeal to the State superintendent of public instruction, or a civil action in court. 134.

77. What penalties may be imposed if trustees fail to comply with the law in regard to health and decency?

The trustees may be removed from office, and the public money may be withheld from the district. 29. See No. 25.

78. For what amount may a school commissioner order repairs upon a schoolhouse?

\$200. 16. See Nos. 68, 73.

79. What day is fixed by law for Arbor Day?

The Friday following the first day of May. 66.

80. Upon what basis do school commissioners apportion the school moneys allotted to each county?

Upon the number of duly licensed teachers employed for the

legal term, and upon the aggregate number of days of attendance. [Now, upon the latter only, as the State superintendent assigns the district quota.] 11. See Nos. 13, 54, 62

*AUGUST 19, 1891*

81. What penalty does the law impose for the employment of a teacher not legally qualified?

No public money can be apportioned for such teaching. 33. But see 107.

82. What three provisions must be included in the memorandum of employment given to teachers by trustees?

Term of employment, rate of compensation, and when payable. 114. See Nos. 52, 138.

83. In the apportionment of school moneys, what provision is designed (*a*) to encourage the employment of a sufficient number of teachers? (*b*) to increase the attendance of pupils?

(*a*) The district shall receive a district quota of \$100 for every qualified teacher who teaches in that district 32 weeks of 5 school days each, during the school year. 10. (*b*) The apportionment upon aggregate attendance of pupils. 11. See Nos. 13, 54, 62, 80, 83, 156.

84. For how long a time may a pupil be suspended from school (*a*) by the teacher? (*b*) by the trustee?

(*a*) Temporarily, subject to the action of the local school authorities. 195. (*b*) Until the pupil shall have complied with reasonable requirements. 203. See No. 4.

85. Why is the attendance of resident pupils of school age required to be kept separate from the

attendance of non-resident pupils and those not of school age?

Because attendance, as a basis for the apportionment of public money, must include only that of resident pupils of school age. 11, 37. See Nos. 54, 62.

86. What grade of commissioners' certificates can be renewed without reëxamination? Why this regulation?

(a) First grade. (b) It is a recognition of the superior qualifications demanded for that grade. 91.

87. A school is closed for a teachers' institute. How should the teacher give the district credit for that week's attendance, in the aggregate for the term?

Find the daily average attendance for the term, multiply this by the number of days the school was closed, and enter the product in the column for the total for institute week. 17.

88. What school officers can take the teachers' affidavit to the correctness of the register?

School commissioner and district clerk. 122.

89. How can commissioners' certificates of the first and second grades be made valid in a commissioner district other than that in which they were granted?

By endorsement by the commissioner in whose district the holders are to teach. [No longer needed.] 90. See No. 50.

90. What security is provided against the employment of teachers of immoral character?

The commissioner is empowered to withhold certificates from such persons, and to annul those already granted. 96, 99. See Nos. 42, 61, 65.

MARCH 2, 1892

91. Upon what principle does the State levy taxes for the support of free schools?

The safety and prosperity of the State depend upon intelligent citizenship. 157, 213.

92. By whom are vacancies filled, in the office of (a) school commissioner? (b) district trustee?

(a) By the county judge, or by the people at a general election. 14. (b) By the voters of the district, or by the school commissioner. 29. See Nos. 59, 60, 72.

93. What is the shortest term for which a teacher may be employed, except it be to fill out an unexpired term?

10 weeks. 34, 114. See No. 75.

94. For what purpose only may trustees use the money received from the State, aside from the library money?

For the payment of teachers' wages. 46.

95. How may the amount of school money received from the State be increased (a) by the trustees? (b) by the patrons of the school?

(a) By employing additional teachers for the legal term. 10. (b) By increasing the aggregate attendance. 11. See No. 83.

96. Name all the regular legal holidays occurring during the year.

New Year's Day, Washington's Birthday, Decoration Day, July 4th, Labor Day, General Election Day, Thanksgiving Day, Christmas. [Now, also Lincoln's Birthday.] 10. See No. 2.

97. What power has the school commissioner in

regard to (a) repairs upon the schoolhouse? (b) school furniture?

(a) He may order repairs to the amount of \$200. (b) He may direct the purchase of new furniture, or order repairs on the old furniture, to an amount not exceeding \$100 in any one year. 16. See Nos. 68, 73.

98. (a) When a district has three trustees, for what length of time is each elected? (b) For what length of time is a sole trustee elected?

(a) 3 years. (b) 1 year. 22. See No. 29.

99. By whom is the amount to be paid for teachers wages fixed?

By the trustees. 33, 110.

100. What penalty is prescribed for the wilful violation of a contract, by a teacher?

The revocation of his certificate. 34, 103, 124. See No. 55.

*AUGUST 17, 1892*

101. What amount of money may a district trustee or trustees expend in one year, without a vote of the district (a) for maps, globes, charts or other apparatus? (b) for repairs?

(a) \$15, (b) \$20. [Now, (a) \$25; (b) \$50.] 48. See No. 15.

102. What is the provision of law in regard to school trustees being interested in contracts for work to be done on school property?

They are prohibited from being so interested. 50.

103. What is the provision of law in regard to common school district trustees employing a relative as teacher?

They cannot employ a relative within two degrees [now, of any degree] of relationship without a [ $\frac{2}{3}$ ] vote of the district. 34, 108. See Nos. 14, 24, 31, 57.

104. (a) When does the school year end? (b) What is the date of the annual school meeting?

(a) July 25 [now, July 31]; (b) First Tuesday in August. viii, 19, 50. See Nos. 39, 140, 148.

105. (a) What university has free State scholarships which are granted on examination? (b) How many may be awarded annually?

(a) Cornell University; (b) 128. [Not changed Jan. 1, 1896.] 73.

106. (a) What is the least time for which a teacher may be employed, except to fill out an unexpired term? (b) For how many weeks in any school year must a district school be taught?

(a) 10 weeks. 34. See Nos. 75, 93, 170. (b) 32 weeks. 10. See Nos. 45, 53.

107. How are vacancies filled in the office of (a) school commissioner? (b) district trustee? (c) district collector?

(a) By appointment by the county judge. 14. See Nos. 59, 92. (b) By the voters of the district, if within one month; otherwise the school commissioner may fill the vacancy. 29. See Nos. 59, 72, 92. (c) District trustee or trustees. 30. See Nos. 11, 59.

108. (a) What is meant by the legal term "unqualified teacher"? (b) What is the provision of law in regard to the payment of the wages of such teacher?

(a) A teacher who does not hold an unexpired certificate of qualification; 33, 89. (b) No public money can be paid to such teacher. 33, 107. See No. 81.

109. For what school officers may women in this State vote?

All school district officers. 14, 21.

See No. 28.

110. What authority determines (a) the choice of a teacher for the public school? (b) the amount of wages? (c) the text-books to be used?

(a and b) the trustee, trustees, or board of education. 33, 63, 110. See No. 99. (c) The district meeting [in districts, but in union schools and cities the board of education]. 55. See No. 9.

*MARCH 8, 1893*

111. If school be taught upon a legal holiday the attendance for that day must not be included in the aggregate attendance, nor reported to the school commissioner. Why?

Because a public school cannot be legally taught on a legal holiday. 10, 116. See Nos. 20, 45.

112. When only is a school commissioner authorized to grant a temporary license?

In cases where public convenience absolutely requires it, and applicants shall present satisfactory reasons for not having been present at a regular examination. [Now, he can only recommend.] 94.

113. What questions only can be legally acted upon at a special school meeting?

Only those mentioned in the call for such meeting. 20. See Nos. 16, 48.

114. State the length of term for which each of the following certificates respectively must be grant-



ed.: (a) third grade; (b) second grade; (c) first grade; (d) State.

(a) Six months. [Now, one year.] 90. (b) Two years. 90. (c) Five years. 91. (d) For life. 94. See No. 166.

115. In whom is vested the power to fix the amount to be paid (a) for teachers' wages? (b) for a site for a schoolhouse?

(a) The trustee, trustees, or board of education. 33, 63, 110. See Nos. 99, 110. (b) The people voting at a school meeting. 23. See No. 175.

116. How may a trustee of a common school district be authorized to employ a teacher within a prohibited degree of relationship?

By a  $\frac{2}{3}$  vote of a school meeting. 34. See Nos. 14, 24, 31, 57, 103.

117. What qualifications have been prescribed for admission to teachers' training classes under the supervision of the State department of public instruction?

The candidate must be 16 years of age, must hold a certificate of the first, second or third grade, granted under the uniform system of examinations, or he must hold a Regents' preliminary certificate and a pass-card in physiology. [For present regulations, see pages 79, 80.]

118. The attendance of what pupils must not be included in the aggregate attendance as the basis for the apportionment of public money to the district?

Non-resident pupils and those under 5 or over 21 years of age. 37. See Nos. 54, 62, 64, 85.

119. (a) When is a teacher required to make affidavit to the correctness of the school register? (b) why does the law make such affidavit necessary?

(a) Before receiving any payment for services rendered. 49, 122. (b) Because the correctness of the apportionment of the school moneys by school commissioners depends upon the accuracy of the records of attendance. 11.

120. Where is the authority to adopt text-books vested: (a) for use in a union school; (b) in a common school?

(a) In the board of education. 55. (b) In the district meeting. 44. See Nos. 99, 110.

*AUGUST 16, 1893*

121. In a district having more than one trustee, what procedure is necessary to legally hire a teacher?

At least a majority of the trustees must meet as a board after due and timely notice to all of them, and acting as a board enter into a contract with a teacher. 110.

122. Who are eligible to the office of school commissioner? Who are entitled to vote for school commissioner?

Any citizen, male or female, 21 years of age or upwards, and a resident of the county. All citizens, male, having the qualifications as to age and residence prescribed for voters at an election for other officers. 14. See Nos. 28, 109.

123. Give the qualification of voters at a district meeting as to (a) sex; (b) property.

(a) Male or female. 21. (b) Must own or rent real estate liable to a tax for school purposes, or must be assessed on the last completed assessment-roll of the town for not less than \$50. 20, 21 See No. 32.

124. What is the date of the annual school meeting as fixed by the last legislature?

The fourth [now, the first] Tuesday in August of each year. viii, 19. See No. 40.

125. Name three provisions of the "Health and Decency Act".

Answers will differ. 47. See Nos. 25, 77, 177.

126. What authority determines the number of hours a teacher must teach daily? What is the redress for abuse of such authority?

The trustees or the board of education. 37, 144. An appeal to the State superintendent of public instruction. 9.

127. When is a teacher qualified to contract with a trustee to teach a school?

When he is the holder of a valid certificate for an unexpired term sufficient to cover the time covered by the contract. 33, 105-107. See No. 108, 174.

128. How must a district collector proceed in order to obtain from the supervisor of the town the public money apportioned to the district?

He must give good and sufficient bonds, approved by the trustee of the school district. 25.

129. Give the method of procedure in computing the aggregate attendance for institute week in cases where the institute is held during a term of school.

Find the average daily attendance for the term of school during which the institute is held; multiply this average by the number of days the school was closed on account of the institute. 17. See No. 87.

130. Give three items to be entered in the school

register by the teacher, and which are a part of the trustee's annual report to the school commissioner.

Answers will differ. 122. See No. 119.

*MARCH 2, 1894*

131. (a) What is the minimum length of time that a public school must be taught to entitle it to share in the public moneys? (b) Upon what two additional items does its right to a share of the public moneys depend?

(a) 160 days, inclusive of legal holidays and institute week, and exclusive of Saturdays. 10. See Nos. 45, 53. (b) A qualified teacher must have been employed. 33. The trustee must have made his report to the school commissioner within the time specified by law. 50.

132. Give two reasons why the school register should be accurately kept.

It is the record for the district. It furnishes the data for the trustees' report to the school commissioner. Upon this report the apportionment of public money depends. (Other correct answers accepted.) 11, 50, 122. See Nos. 119, 130, 178.

133. In a school district not having a board of trustees what officer is virtually treasurer of the district? Give reason for your answer.

The district collector. Because by giving sufficient bond he can withdraw from the hands of the supervisor all moneys belonging to the district, and hold them in addition to the money collected by tax. [A treasurer is now optional.] 28.

134. What length of experience in teaching is required of candidates for (a) State certificates; (b) certificates of the first grade; (c) certificates of the second grade?

(a) 2 years. 92. (b) 2 years. 91. (c) 16 [now 10] weeks. 90.  
See No. 166.

135. A pupil has been suspended from school. When must the teacher again admit him to school?

When the pupil shall have received the trustees' consent to his return. 195. See No. 4.

136. What three district offices may be filled by the trustees in case a vacancy occur therein?

Clerk, collector, and librarian. 30 See Nos. 11, 59, 107.

137. In case of a special school meeting what business may be transacted?

Only such business as is specified in the call. 20. See Nos. 16, 48, 113.

138. (a) Why is a memorandum of contract desirable? (b) What items should it contain?

(a) It furnishes evidence in case of dispute. 113. (b) Length of term of service. Date of commencement of service. Compensation, amount of and how payable. 114. See Nos. 52, 82, 180.

139. Why does the law prohibit the same person from holding the office of school trustee and supervisor of his town?

Because the person would pay out moneys to himself on his own warrant. This is contrary to the principles of our government. 12.

140. (a) Give date of commencement of the school year. (b) No public school shall be taught on a legal holiday or on Saturday. If a teacher lose a day from any cause, when shall such lost time be made up?

(a) July 26. [Now, Aug 1 ] viii., 19, 50. See Nos. 39, 104, 148. (b) On a school day or days immediately following the close of the term. 116. See Nos. 20, 45, 111, 143.

*AUGUST 17, 1894*

141. State three duties of the district trustee.

Answers will differ. 28-50. See No. 66.

142. (a) What officers apportion the public school moneys among the school districts of the several counties; (b) upon what statistics?

(a) The State superintendent of public instruction and the school commissioner. (b) Upon the reports of the district trustees to the school commissioners. 10, 11. See Nos. 13, 27, '62, 80.

143. No public school shall be taught on a legal holiday or on Saturday. If a teacher lose a day from any cause, when should such lost time be made up?

The week following the close of the regular term of school, or at such other time as the trustee and the teacher agree upon. 116. See Nos. 20, 45, 111, 140.

144. (a) Give the date prior to which all school moneys belonging to a district should be drawn from the hands of the supervisor. (b) If there be money belonging to any district in his hands at such time, what is done with it?

(a) The 1st Tuesday in March. 13. (b) A return thereof shall be made to the county treasurer and be reapportioned according to law. 13.

145. (a) For what school officers may women vote under certain qualifications? (b) State three of these qualifications.

(a) All school district officers. 21.

See Nos. 28, 109, 122. (b) Answers will differ.  
20, 21. See Nos. 32, 123.

146. By whom is the division of a school commissioner district made?

Board of supervisors. 13.

147. (a) Name two purposes of the annual school meeting. (b) In such meeting when must the vote be by ballot and when may it be by ballot or be ascertained by recording the ayes and noes?

(a) Answers will differ. 19-24. (b) In electing officers—In voting a tax levy. 22-24.

148. (a) On what date does the school year commence? (b) On what date must a trustee make his annual report to the school commissioner?

(a) August 1. viii. See Nos. 39, 104, 140. (b) August 1. 50.

149. Give date of the annual school meeting.

The 1st Tuesday in August. 19. See Nos. 40, 124.

150. Name two provisions of the compulsory education law of 1894.

Answers will differ 43. See No. 160.

*MARCH 8, 1895*

151. (a) How is the State superintendent of public instruction elected? (b) What is the length of term of his office? (c) State one of his duties?

(a) By joint ballot of the senate and assembly. (b) 3 years.  
(c) Answers will differ. 9-12. See No. 41.

152. What part of the State public school moneys shall be applied exclusively to the salaries of teachers and supervisory officers?

All except the library money. 10. See No. 94.

153. "No Saturday shall be counted as part of the school term of 160 days." Give one good reason for such provision.

Answers will differ. 116.

154. No school commissioner or supervisor is eligible to the office of trustee, and no trustee can hold the office of district clerk, collector, treasurer, or librarian. Why such provisions?

In order that the same person shall not hold two offices, one of which should be entirely independent of and at the same time a check upon the other. 14, 22.

155. No person shall be eligible to hold any school district office who cannot read and write. Give reason for such a provision.

The clerical duties of the office require at least such qualifications. Other correct answers accepted. 22.

156. (a) What is meant by the "district quota"?  
(b) Upon what condition shall such quota be granted?

(a) It is the distributive portion of \$100 granted to each district, (b) upon the condition of the employment of a duly qualified teacher for the school term of 160 days, and \$100 for each additional duly qualified teacher so employed. 10. See Nos. 13, 54, 62, 71, 83.

157. What is the legal length of term of office of a sole trustee?

One year. 22. See No. 29.

158. What is the school law with reference to (a) memorandum of contract between trustee and teacher; (b) with reference to when pay of teachers is due?



(a) "All trustees of school districts who shall employ any teacher to teach in any of said districts, shall at the time of such employment make and deliver to such teacher, or cause to be made and delivered, a memorandum in writing, signed by said trustee or trustees or by some other person or persons duly authorized to represent him or them in the premises." 113. See Nos. 22, 138. (b) "The pay of any teacher employed in any of the school districts of this State shall be due and payable at least as often as at the end of each calendar month of the term of employment." 119. See Nos 10, 22.

159. What is (a) the minimum limit of lawful school age? (b) The minimum limit of age at which attendance at school is compulsory?

(a) 5 years of age. 37, 66. See Nos. 54, 62, 64, 85. (b) 8 years of age. 43.

160. What penalty is attached to the failure of a district to enforce the compulsory education law?

The State superintendent may withhold one-half of all public school moneys from such district. 43. See No. 150.

*AUGUST 9, 1895*

161. State in substance one of the extracts from the school law found in every school register.

Answers will differ.

162. Who are qualified voters at a school meeting?

See Consolidated School Law, Title 7, Article 1, Section 11. 20, 21. See Nos. 32, 123, 145.

163. State the provisions of the school law with reference to teachers' institutes as to (a) the closing of schools outside of cities and villages having five thousand or more inhabitants and employing a superintendent; (b) attendance of teachers.

(a) All schools must be closed. 116. See No. 35. (b) All teachers employed in teaching or under contract to teach must attend. 103, 117.

164. "No school shall be in session on a legal holiday." Give one good reason for such a law.

Answers will differ. 116. See Nos. 20, 45, 111, 140.

165. State three duties of the school commissioner.

Answers will differ 14-18.

166. Name the six kinds of teachers' licenses in this State; state the conditions upon which each is granted, and the length of time for which each is valid.

(1) State certificate.—Upon examination after 3 years [now 2] experience in teaching—for life, unless revoked for cause. (2) College graduate certificate.—Upon 3 years experience in teaching subsequent to graduation from some reputable college, [and possession of a uniform 1st-grade certificate]—for life, unless revoked for cause. (3) Normal school diploma.—Upon graduation from one of the State normal schools—until revoked. (4) School commissioner's [now called uniform] certificate.—Upon examination under the regulations governing uniform examinations.—1, 2, or 5 years. (5) Professional [now training-class] certificate.—Upon examination under the regulations governing teachers' training classes—3 years. (6) Temporary license.—Upon evidence satisfactory to the State superintendent of public instruction—6 weeks. [Now three more kinds.] 89-95. See Nos 114, 134.

167. "Any failure on the part of a teacher to complete an agreement to teach a term of school without good reason therefor, shall be deemed sufficient ground for the revocation of the teacher's certificate." State two good reasons for such provision.

Answers will differ. 103, 124. See No 55.

168. In case of the employment of an unqualified teacher in any district, against whom may the contract be enforced by the teacher ?

The individual trustee or trustees making the contract. 107.

169. Whose duty is it, by law, to keep the school-room clean and fit for use ?

It is the duty of the trustee. 32, 119, 130, 145.

170. State (a) the minimum and (b) the maximum length of term for which a trustee can in advance make a contract for the employment of a teacher.

(a) 10 weeks. (b) 1 year. 114. See Nos. 75, 93, 106.

*MARCH 6, 1896*

171. (a) What is meant by a "district quota" in the apportionment of school money? (b) What is its amount?

(a) The amount of money apportioned to the several school districts by the State superintendent of public instruction, based upon the number of qualified teachers employed for 32 weeks of 5 school days each during the year. (b) \$100. 10. See Nos. 13, 54, 62, 71, 83, 156.

172. What day is fixed by law for Arbor Day?

The Friday following the first day of May. 66, 157. See No. 79.

173. Upon what date does the school year end? July 31. viii, 19, 50. See Nos. 39, 104, 140, 148.

174. What is meant by the legal term "qualified teacher"?

One who holds an unexpired and unannulled uniform or State certificate, or a normal diploma. 89-108. See Nos. 108, 127.

175. Who has the sole power to fix the amount to be paid (a) for teachers' wages; (b) for a school-house site?

(a) The trustees. 33, 63, 110. See Nos. 99, 110. (b) The district meeting. 23, 56. See No. 115.

176. Name the legal holidays in this State.

New Year's Day, Washington's Birthday, Decoration Day, July 4th, Labor Day, General Election Day, Thanksgiving Day, Christmas. [Now, also Lincoln's Birthday.] 10. See Nos. 2, 96, 119, 132.

177. Name three provisions of the "Health and Decency Act".

Answers will differ. 16, 47, 64. See Nos. 25, 77, 125.

178. State two reasons for keeping a school register accurately.

Because the public money is partly apportioned upon the aggregate attendance of resident pupils of school age. As a record for the district. 11, 49, 50, 122. See Nos. 37, 47, 54, 62, 85, 119, 132.

179. State two provisions of the compulsory education act.

Answers will differ. 43. See Nos. 150, 160.

180. What items should a "memorandum of hiring" contain?

Term of employment, rate of compensation, and when payable. 114. See Nos. 52, 82, 138.

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